Supreme Court, U.S.
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MICHAEL RODAK, JR., CLERK

No. 79 1128

IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

THE UNITED STATES OF AMERICA and THE CROW TRIBE OF INDIANS, MONTANA,

Respondents

V.

THE STATE OF MONTANA, MONTANA STATE FISH AND GAME COMMISSION, JOSEPH H. KLABUNDE, SPENCER S. HEGSTEAD, EARL L. SHERRON JR., ALFRED L. BISHOP, and PAUL B. TIHISTA; BIG HORN ROD & GUN CLUB; and CITIZENS RIGHTS ORGANIZATION,

Petitioners.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Petition for Certiorari Filed January 21, 1980
Certiorari Granted April 14, 1980

JOINT APPENDIX
VOLUME II — EXHIBITS

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PL. EXHIBIT NO. 18

Crow Agency, Montana.

May 4th 1881.

To the Departments and various Committees on Indian Affairs.

Washington, D. C.

Honorable Sirs:

We, the undersigned members of the Crow Tribal Business Committee, request the proper authority to acknowledge our hunting and fishing rights upon our own reservation, and direct it to be carried on in the proper manner so as to meet the required laws governing and protecting the rights and interests of the Crow Indians. In order to conserve the game and fish upon the Crow Indian Reservation as well as in the state of Montana there should be strict limitations placed on the out-sider who has been in the past on every day violator of those rights which we assume to have as a race of people.

The intent of the mountain reservations in the Crow Bill was to reserve the Indian a place for his wild game. This was not made for any other people for they have the whole country to hunt accept within the boundaries of the Crow Indian Reservation.

In case any person who is our neighbor wants to hunt and fish upon our reservation we, as the business committee for the Crow Tribe wish to be recognized.

James Carpenter
Chairman

Geo. W. Hogan
Secretary

James Laforge
Barney Old Coyote

This is to certify that the above signed members constitute a quorum of the Tribal Business Committee.

Geo W. Hogan

PL. EXHIBIT NO. 20
DEPARTMENT OF THE INTERIOR

United States Indian Field Service

Crow Agency, Mont.
June 7, 1921

Commissioner of Indian Affairs
Washington, D.C.

Sir:

Referring to above letter of June 3, 1921, relative to fishing and hunting on the Crow Reservation, I would refer to sundry correspondece running back over the past two years, in which I have attempted to get the Office to advise me postively what authority we might have in preventing the fishing, and just how the situation here might best be handled. This had also been the subject of some conversation with the Office when I have been there in person. This was the subject of my letter of June

2, in which I went into this matter somewhat fully. This correspondence will cover my attitude on this subject.

I do not think it advisable that any form of permit be attempted which should have to be submitted to the Business Committee. This would mean that the Business Committee would have to stay in session all the time. Whatever form of permit is authorized, if any, should be handled by the Superintendent's office.

In reference to the hunting, I do not believe any permits should be issued, but the mountain portion of the reservation should be protected as a game preserve and as a range, and I quite firmly believe, as stated in the letter above referred to that some strict regulations should be enforced, touching the Indian hunting for the reasons stated in above letter.

Very respectfully,
/s/ (Unintelligible)
Superintendent

PL. EXHIBIT NO. 28

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

Myles E. Flint
Acting Chief
Indian Resources Section
Land and Natural Resources Division
Department of Justice
Washington, D.C. 20530

Dear Mr. Flint:

We were advised by attorneys for the Colville Tribes that the State of Washington filed the attached memorandum by the Field Solicitor, Billings as an indication of the "Government's confusion" regarding its position in the case *Colville Confederated Tribes v. Washington*, No. C-75-146 (E.D. Wash. 1975). The memorandum of the Field Solicitor is in clear conflict with the letter of the Deputy Solicitor to the Assistant Attorney General on August 11, 1975 which requested that the United States support the Tribes in their assertions that they exercise exclusive control over hunting and fishing on the Reservation. As you know, this Department has also supported a position similar to that taken in the *Colville* case in the appeal of the district court's decision in *United States v. Finch*, 395 F. Supp. 205 (D. Mont., 1975) and in the pending case, *United States v. Montana*, Civil No. 75-105 (D. Mont.). The Field Solicitor's memorandum also conflicts with two other memoranda of this office which I attach. I have accordingly issued an opinion restating our position and withdrawing the Field Solicitor's opinion. To remove any possible confusion as to our views, I strongly urge that you immediately file this opinion with the court to clarify any confusion created by the Field Solicitor's memorandum, and advise the court of our position.

Sincerely,
Reid Peyton Chambers

Attachments

United States Department of the Interior
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

MEMORANDUM

TO: Area Director, Indian Affairs, Billings
From: Associate Solicitor, Indian Affairs
Subject: Jurisdiction of State of Montana over non-Indians hunting and fishing on Indian Reservations in Montana

The memorandum of the Field Solicitor, Billings, on this subject recently came to my attention. That memorandum is in clear conflict with the policy of this Division and is hereby withdrawn. The position of this Division was previously set forth in a memorandum dated September 8, 1975 by the Assistant Solicitor for Indian Natural Resources regarding an ordinance of the Navajo Tribe. Moreover, this Department has, in a letter to the Assistant Attorney General of the Department of Justice dated August 11, 1975, requested that the United States support the Colville Tribes in their assertion that they exercise exclusive control over non-Indians hunting and fishing on their Reservation. Similarly, in two pending federal court cases,[1] this Department has also supported the position of the Crow Tribe that they exercise exclusive jurisdiction vis-a-vis the State over non-Indians hunting and fishing on the Reservation.

At issue in these matters is the extent of tribal control over the utilization of natural resources within a

[1] *United States v. Finch* CR-74-25, D. Mont., (April 9, 1975) *appeal docketed*, No. 75-2149, 9th Cir., Sept. 29, 1975; *United States v. Montana*, Civil No. 75-105, (D. Mont.).

reservation vis-a-vis that of the state. Indian tribes retain exclusive control over the rights to hunt and fish on their reservations, absent Congressional legislation to the contrary, and hence a state's attempts to enforce its fishing laws against non-Indians on trust lands within the reservation are impermissible where the non-Indians are acting with tribal authority.

When lands are reserved for the occupancy and use of Indians, that reservation includes the exclusive right to hunt and fish on such lands. *Menominee Tribe v. United States,* 391 U.S. 404 (1968); *Alaska Pacific Fisheries v. United States,* 248 U.S. 78 (1918); *Kimball v. Callahan,* 493 F.2 564 (9th Cir.) *cert. denied,* 42 L.hd. 2d 292. this principle is unaffected by the fact that a reservation is established by executive order. *Qucchan Tribe v. Bowe,* 350 F. Supp. 106, 111 (S.D. Cal., 1972) appeal docketed, No. 72-3199, 9th Cir., Nov. 16, 1972; see also, *United States v. Walker River Irrigation District,* 104 F.2d 334 (9th Cir., 1939). Nor does it matter whether the document establishing a reservation specifically mentions hunting and fishing. *E.g., Monominee Tribe v. United States, supra.*

Since they hold an exclusive right to hunt and fish, tribes may lawfully enact tribal ordinances which prohibit or regulate non-Indian fishing and hunting within their reservations. *Metlakatla Indian Community v. Egan,* 369 U.S. 45 (1962); *Alaska Pacific Fisheries v. United States, supra, Oneida Indian Nation v. United States,* 165 Ct. Cl. 487, *cert. denied,* 379 U.S. 946 (1964); *Moore v. United States,* 157 F.2d 760 (9th Cir., 1946), *cert. denied,* 330 U.S. 827 (1947); *Quechan Tribe v. Rowe, supra.* Such ordinances may be enforced by the Federal Government through the operation of 18 U.S.C. § 1165 since they

constitute a denial of the "lawful authority or permission" required by that statute.

Moreover, the assertion of the state that it can regulate the conduct of non-Indians hunting or fishing with tribal permission is plainly inconsistent with the long-standing and well-established doctrine of tribal sovereignty in that it directly interferes with reservation self-government. *Williams v. Lee*, 358 U.S. 217 (1959); of. *McClanahan v. Arizona State Tax Commission*, 411 U.S. 164 (1973). As the previous discussion indicates, the importance of the tribal rights to control hunting and fishing on the reservation have been continuously recognized by the courts. The critical nature of that right in conjunction with the doctrine of tribal sovereignty requires that tribes have exclusive control over those hunting and fishing on their reservations.

The practical effect of state regulation is destructive of tribal rights. For example, a state requirement that all non-Indians purchase state fishing licenses would diminish the number of non-Indians fishing on the Reservation since they would have to purchase both state and tribal licenses — thus making fishing on a reservation more expensive than in the rest of the state. And indeed, the mere threat of enforcement in many situations results in an infringement of the Tribes' rights.

Consequently, it is my view that the opinion of the Field Solicitor is incorrect and inconsistent with other positions taken by this office. I recognize, of course, that the decision in *United States v. Finch*, which we have appealed, is controlling on the Crow Reservation until it is modified or revised.

That case arose out of the criminal prosecution by the United States under 18 U.S.C. § 1165 of a non-

Indian for fishing from state-owned land adjacent to the Big Horn River within the exterior boundaries of the Crow Reservation. The Court made three separate holdings: one, that the Crow Tribe does not own the bed of the Big Horn River and thus may not control fishing on that river; two, that non-Indians fishing from non-trust land adjacent to streams and rivers are exempt from tribal control; and three (contrary to the clear line of cases cited above), that the Crow Tribe does not hold an exclusive right to hunt and fish on its own reservation, and thus may not exercise control over non-Indian hunting and fishing on the Crow Reservation.

This office considers all three of these grounds to be erroneous, and the case is presently being appealed by the Department of Justice to the Ninth Circuit Court of Appeals at this Department's request.

In the meantime that decision is controlling on the Crow Reservation.

(SGD) REID PEYTON CHAMBERS

Department of Justice

United States Department of the Interior
OFFICE OF THE SOLICITOR
P.O. BOX 1538
BILLINGS, MONTANA 59103

January 9, 1976

Memorandum

To: Area Director, Indian Affairs, Billings
Attn: Law Enforcement Services

From: Field Solicitor, Billings

Subject: Jurisdiction of State of Montana over non-Indians hunting and fishing on Indian Reservations in Montana

The memorandum dated September 8, 1975, to the Director, Office of Trust Responsibilities, Bureau of Indian Affairs, from the Assistant Solicitor, Indian Natural Resources, setting forth the opinion that the Navajo Tribe has the legal right to assert the exclusive control over hunting and fishing on the Navajo Reservation and the memorandum of the Field Solicitor, Albuquerque, relating thereto, have been considered and reviewed with specific reference to the subject matter of this letter.

On March 28, 1962, I provided an opinion to the State of Montana Fish and Game Department (copy attached) dealing with the specific question of the jurisdiction of the State of Montana over the non-Indian who violates State Fish and Game Laws while on an Indian reservation. I re-affirmed that opinion in a letter to the State Fish and Game Department dated September 5, 1972. (Copy attached.)

While I have a high regard for the authors of the opinions relating to the Navajo Reservation, I do not consider those opinions controlling with respect to the specific question of State of Montana jurisdiction over non-Indians.

I am cognizant of the fact that the law with respect to the jurisdiction of tribal and state authorities over non-Indians in general criminal matters is presently the subject of litigation in state, district and appellate courts. Although there have been significant court decisions rendered in recent years, the full ex-

tent of tribal and state jurisdictions, respectively, has not been determined. In this regard, as you are aware, the case of *United States v. Finch,* 395 F. Supp. 295 (D.C. Mont., 1975), is being appealed to the Ninth Circuit Court of Appeals and is scheduled for oral argument on January 13, 1976. The District Court in *Finch* held that the Crow Tribe does not own, the bed of the Bighorn River and thus may not control fishing on that river, that the tribe may not prohibit fishing by non-Indians on non-Indian land located within the boundaries of the reservation and that the Crow Tribe does not hold an exclusive right to fish on its reservation.

In addition, presently pending before the Montana District Court is an action, *United States v. State of Montana, ct al.,* Civil No. 75-109-DLC, seeking *inter alin,* declamatory relief that the United States and the Crow Indian Tribe have the sole authority to regulate hunting and fishing by Indians and non-Indians within the Crow Indian Reservation.

It should be remembered that we are dealing with three separate jurisdictions — federal, state and tribal. The Indian Country is not an area of exclusively one jurisdiction. Instead, the separate jurisdictions complement the other jurisdictions. Thus, under circumstances depending on the status of the person, Indian or non-Indian, and the place of the incident, trust or non-trust land, the person may be *subjected to and required to comply with* the laws and regulations of more than one jurisdiction.

The lands within a reservation, Indian Country, are part of the state in which state laws apply to the extent that they do not conflict with Federal Indian law. The test, established by *Williams v. Lee,* 358 U.S. 217 (1959), is whether the state action infringed on the right of the reservation Indians to made their

own laws and be ruled by them. The test was designed to resolve situations involving non-Indians where both the tribe and the state could fairly claim an interest in asserting their respective jurisdictions. It provides that the state can protect its interest up to the point where tribal *self*-government would be affected. (See *McClanahan v. Arizona State Tax Commission*, 411 U.S. 164 (173).

In view of the foregoing, and considering the court decisions which have been rendered, including *State ex. rel. Nepstad v. Danielson*, 149 Mont. 438, 427 P.2d 689 (1967) and *Donahue v. California Justice Court for Kamath Trinity Judicial District*, 93 Cal. Rptr. 310 (1971), it continues to be my opinion that the State of Montana has jurisdiction over non-Indians on Indian reservations in Montana for violations of the Montana Fish and Game laws.

A. E. Bielefeld
Field Solicitor

Enclosures

cc:
Associate Solicitor, Indian Affairs, Washington, D.C. Regional Solicitor, Denver, Co.
(w/cy encs. to ea.)

P. O. BOX 1538
BILLINGS, MONTANA

March 28, 1962

Mr. Don Wright
State Fish and Game Department
Glagow, Montana

Dear Mr. Wright:

In our telephone conversation of March 21 with Mr. Jack Mohler of Billings and in our telephone conversation of March 22 with you, it was indicated that you desired copy of a Solicitor's opinion addressed to the question of a State Game Warden's right to make arrests on an Indian Reservation.

There are several Solicitor's opinions which make it plain that the authority of the State Fish and Game Laws does not extend to an Indian on an Indian Reservation. (57 I.D. 295; 58 I.D. 331).

However, I believe your interest was directed to the non-Indan offender who violates the State Fish and Game Laws while on an Indian Reservation. I find no Solicitor's opinion on this point and I am not certain that it has been judicially settled that a State Fish and Game Law can be violated on an Indian Reservation.

Section 1165 of Title 18 of the United States Code is a Federal prohibition against hunting and fishing on Indian land without permission. This would normally exclude the application of the State law as to Indian land, but it is not clear whether State law would be applicable to non-Indian lands within a Reservation, or to situations where the Indian Tribal Council made possession of a State license a condition to permission to hunt and fish on Indian lands. These are matters on which you may wish to secure the advice of the Attorney General of the State of Montana.

Once it is established that a non-Indian has violated the State Fish and Game Laws while on an Indian Reservation, the Game Warden's right to make an arrest would be supported by the following language in *Federal Indian Law,* U. S. Government Printing

Office, 1958, at pages 513-514:

> ". . .Indian country within a State ordinarily is not regarded as an area of exclusive Federal jurisdiction but is politically and governmentally a part of the State in which State laws apply to the extent that they do not conflict with Federal Indian Law. The scope of State jurisdiction was indicated by the Supreme Court in *United States v McGowan*, as follows:
>
> > ".* * *Enactments of the Federal Government passed to protect and guard its Indian wards only affect the operation, within the colony [or reservation] of such state laws as conflict with the Federal documents. (P.589).
>
> "Is considered, the general jurisdiction of the State over non-Indians extends throughout the territorial limits of the State can as may be limited by Federal enactment. Thus, it has been held that murder of a non-Indian by a non-Indian on an Indian reservation, in the absence of express Federal Legislation to the contrary, is a matter of exclusive State jurisdiction."

Please let us know if there is further information which you require.

Sincerely yours,

A. E. Bielefeld
Field Solicitor, Billings

cc:
Mr. Jack Kohler, State Fish and Game Department, 1125 Lake Elmo Road, Billings

Area Director, Indian Affairs, Billings, Montana —
Attn: Law & Order

P. O. Box 1538
Billings, Montana 59103

September 5, 1972

Mr. Don Wright
State Fish and Game Department
Mitchell Building
Helena, Montana 59601

Dear Mr. Wright:

In our telephone conversation today, mention was made of the familiar question of the state's jurisdiction over non-Indians who violate state law while on an Indian reservation.

This question was raised some years back, and I provided a memorandum, dated March 28, 1962, copy of which is attached. I have no reason to vary the views there stated. And I am cognizant of the decision in the *Kennerly, Deernose* and *Blackwolf* cases.

Since the 1962 memorandum, the Montana Supreme Court, in *State v. Danielson*, 149 Mont. 433, 427 P.2d 689 (1967), outlined the history and background of the rule that permits the State of Montana to reach non-Indians who violate state fish and game laws while on Indian reservations. The rationale is similar to that set out in *Draper v. United States*, 164 U.S. 240 (1896), where the non-Indian offense was committed on the Crow Indian reservation.

Sincerely,

A. E. Bielefeld
Field Solicitor, Billings

Enclosure

cc:
Area Director, Indian Affairs, Billings — Attn: Law & Order Superintendent, Blackfeet Agency, Browning, Montana — 59417
(w/cy enc. to each)

AEBiclefeld:cp

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

SEPT. 8, 1975

To: Director, Office of Trust Responsibilities

From: Assistant Solicitor, Indian Natural Resources

Subject: Navajo Tribal Council Resolution CJN 28-75

In accordance with your request of July 22, 1975 we have reviewed the hunting and fishing regulations proposed by the Navajo Tribe. We support the Tribe's assertion that they exercise exclusive control over non-Indians hunting and fishing on the Reservation.

The position of the Tribe, as reflected in the proposed regulations, raises the issue of the extent of tribal control over hunting and fishing on the Reservation vis-a-vis that of the State. That question is presently the subject of litigation in the State of

Washington. in *Colville Confederated Tribes v. Washington* the Tribes are seeking to halt state interference with non-Indians fishing on their Reservation. Although the case was tried on August 19, 1975, no decision has been rendered by the Court. The Department has expressed support for the position of the Tribes, although the Government has not yet entered the case. In conjunction with that case, the Solicitor withdrew an earlier Solicitor's Opinion of March 29, 1971 which concluded that the State of Utah could exercise control over non-Indians hunting and fishing on the Uintah and Ouray Indian Reservation.

You should also be aware that the State of New Mexico has recently asserted that it has jurisdiction over non-Indians hunting and fishing on Reservations in New Mexico. The Area Director, Albuquerque, has informed the State that their position is incorrect. No response, however, has been forthcoming from the State.

The present question — whether a tribe exercises exlusive control over hunting and fishing on its reservation — has been directly addressed in two state court decisions prior to the *Colville* case. *State ex rel Nepstad* v. *Danielson*, 149 Mont. 438, 427 P. 2d 689 (1967) applied the standard, established in *Williams* v. *Lee*, 348 U.S. 217 (1959), that state law cannot apply to non-Indians within the reservation when it would "infringe on the right of reservation Indians to make their own laws and be ruled by them." The state court found that Montana had jurisdiction to enforce its fish and game laws against non-Indians on the reservation, stating:

> no convincing argument has been made to show how enforcement of state hunting and fishing

> regulations against a non-Indian would in any manner interfere with self-government on the reservation. 427 P.2d at 689.

That opinion is basically unpersuasive since the court failed to recognize the obvious conflict between the state and tribal authorities.

In *Donahue* v. *California Justice Court for the Klamath Trinity Judicial District,* 15 Cal. App. 3d 557, 93 Cal. Rptr. 310 (1971), the California Court of Appeals for the First District concluded that although the state could enforce its hunting and fishing regulations against non-tribal members, the fact that those individuals were acting with the permission of the Tribe would operate as a complete defense to any state charges.

The Navajo Indian Reservation was established under the Treaty of September 9, 1849, (9 Stat. 974) and modified by the Act of June 14, 1934 (49 Stat. 960). When lands are reserved for the occupancy and use of Indians, that reservation includes the exclusive right to hunt and fish on such lands. *Menominee Tribe* v. *United States,* 391 U.S. 404 (1968); *Alaska Pacific Fisheries* v. *United States,* 248 U.S. 78 (1918); *Kimball* v. *Callahan,* 493 F.2d 564 (9th Cir.) *cert. denied,* 42 L.Ed. 2d 292 (1974); *United States* v. *Washington,* 384 F. Supp. 312, 332, (W.D. Wash., 1974), affm'd._____F.2d_____, (Civ. No. 74-2414, June 4, 1975, 9th Cir.). This principle is unaffected by the fact that a reservation or parts of it may have been established by executive order. *Quechan Tribe* v. *Rowe.* 350 F. Supp. 106, 111 (S.D. Cal., 1972) appeal docketed, No. 72-3199, 9th Cir., No. 16, 1972; see also, *United States* v. *Walker River Irrigation District,* 104 F.2d 334 (9th Cir., 1939). Nor does it matter whether the document establishing

the Reservation specifically mentions hunting and fishing. *E.g., Menominee Tribe* v. *United States, supra.*

Since the Navajo Tribe holds an exclusive right to hunt and fish within its Reservation, the Tribe may lawfully enact tribal ordinances which prohibit or regulate non-Indian fishing in waters within the Reservation. *Metlakatla Indian Community* v. *Egan,* 369 U.S. 45 (1962); *Alaska Pacific Fisheries* v. *United States. supra; Oncida Tribe* v. *United States,* 165 Ct. Cl. 487, cert denied, 379 U.S. 946 (1904); *Moore* v. *United States,* 157 F.2d 760 (9th Cir., 1946), *cert. denied,* 330 U.S. 827 (1947); *Quechan Tribe* v. *Rowe, supra.* such ordinances may be enforced by the Federal Government through the operation of 18 U.S.C. § 1165 since they constitute a denieal of the "lawful authority or permission" required by that statue.

Moreover, any assertion by a state that it can regulate the conduct of non-Indians hunting or fishing with tribal permission is plainly inconsistent with the long-standing and well-established doctrine of tribal sovereignty in that it directly interferes with reservation self-government. *Williams* v. *Lee,* 358 U.S. 217, (1959); cf. *McClanahan* v. *Arizona State Tax Commission,* 411 U.S. 164 (1973). As the previous discussion indicates, the importance of the tribal right to control hunting and fishing on the reservation has been continuously recognized by the courts. The critical nature of that right in conjunction with the doctrine of tribal sovereignty requires that the tribes have exclusive control over those hunting and fishing on the reservation. See also *Quechan Tribe* v. *Rowe, supra.* Moreover, the practical effect of state regulation is destructive of tribal rights. For example, any requirement by a state that

non-Indians purchase state fishing licenses is certain to diminish the number of non-Indians fishing on the reservation since they will have to purchase both state and tribal licenses — thus making fishing on a reservation more expensive than in the rest of the state. And indeed, the mere threat of enforcement may result in an infringement of tribal rights.

On the basis of the above authority we support the Tribe's assertions of exclusive control over hunting and fishing on the reservation.

sgd. Lawrence Aschenbrenner

United States Department of the Interior
OFFICE OF THE SOLICITOR

ALBEQUERQUE LAND OFFICE
Room 7102 Federal Bldg. and U.S. Courthouse
P.O. Box 1696
Qlbuquerque, New Mexico 87103

December 13, 1974

Memorandum

To: Associate Solicitor, Indian Affairs

From: Field Solicitor, Albuquerque

Subject: Jurisdiction and authority to enforce fish and game las and regulations against non-Indians on Indian lands.

The United States Attorney, Albuquerque, has furnished me a copy of his letter of December 4, 1974 to the Chief, General Litigation Section, Land and

Natural Resources Division of the Department of Justice, Washington, on the above subject. Enclosed herewith are copies of the U.S. Attorney's letter and the enclosures referred to therein.

The matter referred to in the U.S. Attorney's letter is the long-standing controversy between the New Mexico Department of Game and Fish and the Navajo Tribe concerning authority of the State of New Mexico to enforce its laws and regulations concerning the taking of fish and game animals by non-Indians from lands and waters within the Navajo Indian Reservation. A similar controversy has existed between the State and the other Indian tribes and Pueblos in New Mexico, with the single exception of the Jicarilla Apache Tribe. (Apparently the Jicarillas are satisfied with their cooperative program with the New Mexico Game and Fish Department.)

I have always been of the opinion that Indian tribes have and retain the legal authority to control the taking of fish and game abounding on their lands, to the exclusion of any other government authority except the Congress of the United States. I have always felt that this is not only a proprietary right, as landowner, but that the direction of the manner in which a natural resource was taken and used (a resource belonging in common to all members of the tribe), to insure its best utilization for the tribe's benefit, is an exercise of tribal police power.

At various times, I have stated my views on this subject in support of recreational developments on the various Indian reservations in the Southwest, notably the Uintah and Ouray Reservation in Utah; the White Mountain Recreation Enterprise on the Fort Apache Reservation, in Arizona; and on the Navajo Reservation fisheries in New Mexico and

Arizona. However, Solicitor's Opinion M-36813, of March 29, 1971, foreclosed my further expression in this area. As you know, that opinion held that Utah State game laws applied to non-Indians hunting on the Uintah and Ouray Indian Reservation.

A review of this opinion shows that it rests on the proposition that an Indian tribe cannot have "title" or "ownership" in fish and wildlife since the *forae naturae* is susceptible only of capture. That proposition is then extended to the conclusion that since the tribe does not "own" the *ferae naturae,* found on its reservation, it cannot have complete authority to control the taking or capture of fish and game except as to its members, and perhaps as to other Indians within its reservation, but must yield to state license and control over non-Indians. That conclusion appears grounded in the U.S. Supreme Court decision in *Geer* v. *State of Connecticut,* 1896, 161 U.S. 519, 40 L. Ed. 793.

The *Geer* case relied on a prior Supreme Court decision in *Martin, et al.,* v. *The Lessee of Waddell,* 1842, 41 U.S. 367, 10 L. Ed. 997, in which Chief Justice Roger Taney makes the following statements:

> ". . .the English possessions in America were not claimed by right of conquest, but "by right of discovery. For according to the principles of international law, as then understood by the civilized powers of Europe, the Indian tribes in the New World were regarded as mere temporary occupants of the soil, and the absolute rights of property and dominion were held to belong to the European nation by which any particular portion of the country was first discovered. Whatever forebearance may have been sometimes practised towards the unfortunate aborigincs,

either from humanity or policy, yet the territory they occupied was disposed of by the governments of Europe at their pleasure, as if it had been found without inhabitants. . . ."

In confrontations between the States and the Federal Government over the management and control of resident species of wildlife on Federally-owned lands (wildlife refuges, national parks, etc.), our office has consistently taken the position that the State's authority must yield to the power of the national government. See Solicitor's Opinion M-36672, December 1, 1964, 71 I.D. 469. Significantly, the supremacy of the Federal authority in this field has been grounded on the Constitutional doctrine that the State's regulatory jurisdiction must yield to the Federal Government's exercise of its powers under the property clause, citing *Utah Power & Light Company* v. *U.S.*, 243 U.S. 387 and *Camfield* v. *U.S.*, 167 U.S. 518.

Historically, the Indian people have regarded hunting and fishing as the most sacred and important of all their aboriginal rights to the lands they used and occupied. The various treaties made with the different Indian groups contain specific provisions regarding hunting and fishing. For example, the treaty with the Navajo Indian Tribe (1868) contains provision that the Indians ". . . retain the right to hunt on any unoccupied lands contiguous to their reservation, so long as the large game may range thereon in such numbers as to justify the chase; . . .";

". . . agree to make the reservation . . . their permanent home, and . . . will not as a tribe make any settlement elsewhere, reserving the right to hunt on the lands adjoining the said reservation formerly called theirs . . . ."

With such rights retained as to lands outside their reservation, it seems hardly conceivable that the Indians ever intended that anyone, except the Federal Government, would have any authority to prescribe their management and control over the fish and wild game on their reservation lands.

Please review the U.S. Attorney's letter to the Department of Justice, especially the next-to-last paragraph, and advise whether I should reply or merely notify him that I have referred the matter to your office.

Lotario D. Ortega

Enclosures

1. 12/4/74 let to Justice
2. 11/25/74 let to US Atty, Aq.
3. 12/4/74 let to NM Game Comm'n.
4. 11/25/74 let to Zuni Pueblo
5. 11/25/74 let to Mescalero
6. Routing Slip
7. 11/25/74 let to Acoma Pucblo
8. 11/7/74 let to Dept. of Game & Fish, NM
9. Navajo Fishing Regs.
10. Fishing Location Map, Navajo Res.
11. 8/26/74 let to NM Game & Fish Dept.
12. Navajo Tribal Res. CAU-46-73

cc: R/Sol., Tulsa
A/ Dir., BIA, Aq.

PL. EXHIBIT NO. 30

THE TROUT FISHERY OF THE BIGHORN RIVER BELOW YELLOWTAIL DAM, MONTANA

by

HAROLD RICHARD STEVENSON

A thesis submitted in partial fulfillment
of the requirements for the degree

of

MASTER OF SCIENCE

in

Fish and Wildlife Management

Approved:

_____

Chairman, Examining Committee

_____

Head, Major Department

_____

Graduate Dean

MONTANA STATE UNIVERSITY
Bozeman, Montana
March, 1975

Composition of Fishing Parties

Individuals interviewed were classified according to residence. Fishermen residing within one hours drive of the study area were termed locals. Fishermen residing in Montana excluding locals were called residents. All fishermen residing outside the state of Montana were classified tourists.

During 1972, 457 parties were interviewed on weekends-holidays. The number of fishermen per party ranged from one to eight with a mean of 2.35. The fishermen interviewed were 12.1 percent locals, 80.0 percent residents and 8.0 percent tourists. Individuals from Billings made up 87.2 percent of all resident fishermen and individuals from Wyoming, Colorado and Minnesota made up 59.1 percent of all tourists. Adult males, adult females, and unlicensed juveniles made up 67.8, 17.9 and 14.2 percent of the fishermen.

During 1973, 1,009 parties representing 14.7 percent of the estimated total number of fishermen were interviewed on weekends-holidays and weekdays. Of all the cards given to parties continuing to fish after the interview, 62.5 percent were returned, with shore and boat fishermen returning 67.2 and 55.9 percent of their cards, respectively. The number of fishermen per party ranged from one to nine, respectively, with a mean number of 2.66.

Local residents and tourists composed 11.4, 73.4 and 15.1 percent of all fishermen, respectively. Fishermen from Billings accounted for 80.6 percent of the residents and fishermen from Wyoming, Colorado and Minnesota were 43.1 percent of the total number of tourists. On weekends-holidays locals, residents and tourists comprised 10.1, 78.6 and 11.2 percent of the fishermen, respectively. On weekdays locals, residents and tourists made up 14.8, 60.3 and 24.9 percent of the fishermen, respectively.

During 1973, adult males, adult females and unlicensed juveniles made up 67.8, 16.4 and 15.8 percent of the fishermen, respectively. This composition is comparable to that found on weekends-holidays in 1972.

CROW TRIBE EXHIBIT NO. 1
TREATY WITH THE CROW TRIBE, 1825

For the purpose of perpetuating the friendship which has heretofore existed, as also to remove all future cause of discussion or dissension, as it respects trade and friendship between the United States and their citizens, and the Crow tribe of Indians, the President of the United States of America, by Brigadier-General Henry Atkinson, of the United States' army, and Major Benjamin O'Fallon, Indian agent, with full powers and authority, specially appointed and commissioned for that purpose, of the one part, and the undersigned Chiefs, Head men and Warriors, of the said Crow tribe of Indians, on behalf of their tribe, of the other part, have made and entered into the following Articles and Conditions; which, when ratified by the President of the United States, by and with the advice and consent of the Senate, shall be binding on both parties—to wit:

ARTICLE 1.

It is admitted by the Crow tribe of Inians, that they reside within the territorial limits of the United States, acknowledge their supremacy, and claim their protection.—The said tribe also admit the right of the United States to regulate all trade and intercourse with them.

ARTICLE 2.

The United States agree to receive the Crow tribe of Indians into their friendship, and under their protection. and to extend to them, from time to time, such benefits and acts of kindness as may be convenient, and seem just and proper to the President of the United States.

ARTICLE 3

All trade and intercourse with the Crow tribe shall be transacted at such place or places as may be designated and pointed out by the President of the United States, through his agents; and none but American citizens, duly authorized by the United States, shall be admitted to trade or hold intercourse with said tribe of Indians.

ARTICLE 4.

That the Crow tribe may be accommodated with such articles of merchandise, &c. as their necessities may demand, the United States agree to admit and license traders to hold intercourse with said tribe, under mild and equitable regulations: in consideration of which, the Crow tribe bind themselves to extend protection to the persons and the property of the traders, and the persons legally employed under them, whilst they remain within the limits of their district of country. And the said Crow tribe further agree, that if any foreigner or other person, not legally authorized by the United States, shall come into their district of country, for the purposes of trade or other views, they will apprehend such person or persons, and deliver him or them to some United States' Superintendent or Agent of Indian

Affairs, or to the commandant of the nearest military post, to be dealt with according to law. And they further agree to give safe conduct to all persons who may be legally authorized by the United States to pass through their country, and to protect in their persons and property all agents or other persons sent by the United States to reside temporarily among them; and that they will not, whilst on their distant excursions, molest or interrupt any American citizen or citizens, who may be passing from the United States to New Mexico, or returning from thence to the United States.

ARTICLE 5.

That the friendship which is now established between the United States and the Crow tribe, should not be interrupted by the misconduct of individuals, it is hereby agreed, that for injuries done by individuals, no private revenge or retaliation shall take place, but instead thereof, compliants shall be made, by the party injured, to the superintendent or agent of Indian affairs, or other person appointed by the President; and it shall be the duty of said Chiefs, upon compliant being made as aforesaid, to deliver up the person or persons against whom the complaint is made, to the end that he or they may be punished, agreeably to the laws of the United States. And, in like manner, if any robbery, violence, or murder, shall be committed on any Indian or Indians belonging to the said tribe, the person or persons so offending shall be tried, and, if found guilty, shall be punished in like manner as if the injury had been done to a white man. And it is agreed, that the Chiefs of said Crow tribe shall, to the utmost of their power, exert themselves to recover horses or other

property, which may be stolen or taken from any citizen or citizens of the United States, by any individual or individuals of said tribe; and the property so recovered shall be forthwith delivered to the agents or other person authorized to receive it, that it may be restored to the proper owner. And the United States hereby guarranty to any Indian or Indians of said tribe, a full indemmitication for any horses of other property which may be stolen from them by any of their citizens: *Provided,* That the property stolen cannot be recovered, and that sufficient proof is produced that it was actually stolen by a citizen of the United States. And the said tribe engage, on the requisition or demand of the President of the United States, or of the agents, to deliver up any white man resident among them.

ARTICLE 6.

And the Chiefs and Warriors, as aforesaid, promise and engage that their tribe will never, by sale, exchange, or as presents, supply any nation, tribe, or band of Indians, not in amity with the United States, with guns, ammunition, or other implements of war.

CROW TRIBE EXHIBIT NO. 5

ORGANIC ACT
of the
TERRITORY OF MONTANA

An Act to provide a temporary government for the territory of Montana.

Be it enacted by the Senate and House of Representatives of the United States of American in

Congress assembled,

That all that part of the territory of the United States included within the limits, to-wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourthe degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky mountains; thence following the crest of the Rocky mountains northward till its intersection with the Bitter Root mountains; thence northward along the crest of said Bitter Root mountains to its intersection with the thirty-ninth degree of longitude northward to the boundary line of the British Possession; thence eastward along said boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the territory of Montana: Provided, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries in such manner and at such time as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: Provided further, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said

territory so long as such rights remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Montana, until said tribe shall signify their assent to the president of the United States to be included within said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed.

§ 2. And be it further enacted, That the executive power and authority in and over said territory of Montana, shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory and shall be commander-in-chief of the militia and superintendent of Indian affairs thereof. He may grant pardons and respites for offenses against the laws of said territory, and reprieve for offenses against the laws of the United States, until the decision of the president of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.

References

Ogle v. Town of Ronan, 112 M 394, 396, 117 P 2d

§ 3. And be if further enacted, That there shall be a secretary of said territory, who shall reside therein and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the president of the United States, and two copies of the laws to the president of the senate and to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor, during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

§ 4. And be it further enacted, That the legislative power and authority of the said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters, as hereinafter prescribed, whose term of office shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the

council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district, or county, or counties for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefore. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts, respectively, for members of the council, shall be dfeclared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives in each of said representative districts, respectively, shall be declared by the governor to by duly elected members of said house: Provided, That in case two or more

persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of commencement of the regular sessions of the legislative assembly: Provided, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

§ 5. And be it further enacted, That all citizens of the United States, and those who have declared their intentions to become such, and who are otherwise described and qualified under the fifth section of the act of congress providing for a temporary government for the territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

§ 6. And be it further enacted, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the consitituion of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor

shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said territory shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of such houses shall be determined by yeas and nays, to be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the assembly by adjournment, prevent its return, in which case it shall not be a law: Provided, That whereas slavery is prohibited in said territory by act of congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

§ 7. And be it further enacted, That all township, district and county officers, not herein otherwise provided for, shall be appointed or elected as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Montana. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein

otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for the members of the council and house of representatives and all other officers.

§ 8. And be it further enacted, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly. And no person holding a commission or appointment under the United States, except postmasters shall be a member of the legislative assembly; or shall hold any office under the government of said territory.

§ 9. And be it further enacted, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided

for, both appellate and original, and that of probate courts and of justices of the peace shall be limited by law: Provided, That justices of the peace shall not have jurisdiction of any matter in controversy when the title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts respectively shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said distrrict courts shall have the exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested

in the district and circuit courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases, shall be made to the supreme court of said territory the same as in other cases. The said clerks shall receive, in all such cases, the same fees which the clerks of the district courts of Washington territory now receive for similar services.

§ 10. And be it further enacted, That there shall be appointed an attorney for said territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the Present territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services. There shall also be appointed by the President of the United States, by and with the advice and consent of the senate, a surveyor general of said territory, who shall locate his office at such place as the secretary of the interior shall from time

to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall bfe the same as those of the surveyor general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give.

§ 11. And be it further enacted, That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be appointed by the resident of the United States, by and with the advice and consent of the senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of the respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as

aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said territory, may take said oath or affirmation before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justies shall receive an annual salary of two thousand five hundred dollars; the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective appointments at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each, per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles travel in going to and returning from said sessions, estimated according to the nearest usually travelled routes; an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms, and doorkeeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States; Provided, That there shall be but one session of the legislative assembly annually, unless on an extraordinary occasion the governor shall think proper to call the

legislative assembly annually, unless on an extraordinary occasion the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor, to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

§ 12. And be it further enacted, That the legislative assembly of the territory of Montana shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible; Provided, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed except by an act of the said assembly duly passed, and which shall be approved after due notice, at the

first general election thereafter, by a majority of the legal votes cast on that question.

§ 13. And be it further enacted, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the time and places, and manner of holding elections, shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the constitution and all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Montana territory as elsewhere within the United States.

§ 14. And be it further enacted, That when the lands in said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections number sixteen and thirty-six in each township in said territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

References

Cited or applied in Texas Pacific Coal & Oil Co. v. State, 125 M 258, 234 P 2d 452, 453.

§ 15. And be it further enacted, That, until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or sub-divisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

§ 16. And be it further enacted, That all officers to be appointed by the president of the United States, by and with the advice and consent of the senate, for the territory of Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted to them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

§ 17. And be it further enacted, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued, with the same power and duties which are not prescribed by law, except that the president of the United States may, at his discretion, change the

location of the office of said agencies or superintendents.

§ 18. And be it further enacted, That until congress shall otherwise direct, all that part of the territory of Idaho included within the following boundaries, to-wit: Commencing at a point formed by the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky mountains; thence northward along the said crest of the Rocky mountains to its intersection with the fourty-fourth degree and thirty minutes of north latitude; thence eastward along said forty-fourth degree thrity minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirty-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washingtomn to the forty-first degree north latitude; thence west along said forty-first degree north latitude to the place of beginning, shall be, and is hereby, incorporated temporarily into, and made part of, the territory of Dakota. (Approved May 26, 18645, 13 Stat. 85.)

CROW TRIBE EXHIBIT NO. 7

FORTY-SEVENTH CONGRESS.
Sess. I. Ch. 74, 1882.

CHAP. 74— An act to accept and ratify the agree-

ment submitted by the Crow Indians of Montana for the sale of a portion of their reservation in said Territory, and for other purposes, and to make the necessary appropriations for carrying out the same.

Whereas certain individual Indians and heads of families representing a majority of all the adult male members of the Crow tribe of Indians occupying or interested in the Crow Reservation in the Territory of Montana have agreed upon, executed, and submitted to the Secretary of the Interior an agreement for the sale to the United States of a portion of their said reservation, and for their settlement upon lands in severalty, and for other purposes: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said agreement be, and the same is hereby, accepted, ratified, and confirmed. Said agreement is executed by a majority of all the adult male members of said tribe, in conformity with the provisions of article eleven of the treaty with the Crow Indians of May seventh, eighteen hundred and sixty-eight, and is in words and figures as follows, namely:

"We, the undersigned individual Indians and heads of families of the Crow tribe of Indians now residing upon the Crow Reservation in the Territory of Montana, do, this twelfth day of June, anno Domini eighteen hundred and eighty, hereby agree to dispose of and sell to the Government of the United States, for certain considerations to be hereinafter mentioned, all that part of the present Crow Reservation in the Territory of Montana described as follows, to wit: Beginning in the mid-channel of the Yellowstone River at a point opposite the mouth of

Boulder Creek; thence up the mid-channel of said river to the point where it crosses the southern boundary of Montana Territory, being the forty-fifth degree of north latitude; thence case along said parallel of latitude to a point where said parallel crosses Clark's fork; thence north to a point six miles south of the first standard parallel, being on the township-line between townships six and seven south; thence west on said township-line to the one hundred and tenth meridian of longitude; thence north along said meridian to a point either west or east of the source of the eastern branch of Boulder Creek; thence down said eastern branch to Boulder Creek; thence down boulder Creek to the place of beginning; for the following considerations:

"First. That the Government of the United States cause the agricultural lands remaining in our reservation to be properly surveyed and divided among us in severalty, in the proportions hereinafter mentioned, and to issue patents to us respectively, therefor, so soon as the necessary laws are passed by Congress. Allotments in severalty of said surveyed lands shall be made as follows:

"To each head of a family not more than one quarter-section, with an addition quantity of grazing land not exceeding one quarter-section.

"To each single person over eighteen years of age not more than one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section.

"To each orphan child under eighteen years of age not more than one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; and

"To each other person under eighteen years, or who may be born prior to said allotments, one-eighth

of a section, with a like quantity of grazing land.

"All allotments to be made with the advice of our agent, or such other person as the Secretary of the Interior may designate for that purpose upon our selection, heads of families selecting for their minor children, and the agent making the allotment for each orphan child. The title to be acquired by us, and by all members of the Crow tribe of Indians, shall not be subject to alienation, lease, or incumbrance, either by voluntary conveyance of the grantee or his heirs, or by the judgment, order, or decree of any court, nor subject to taxation of any character, but shall be and remain inalienable and not subject to taxation for the period of twenty-five years, and until such time thereafter as the President may see fit to remove the restriction, which shall be incorporated in each patent.

"Second. That in consideration of the cession of territory to be made by us as individual Indians and heads of families of the Crow tribe to the Government of the United States, said Government of the United States, in addition to the annuities and sums for provisions and clothing stipulated and provided for in existing treaties and laws, hereby agrees to appropriate annually, for twenty-five years, the sum of thirty thousand dollars, to be expended, under the direction of the President, for our benefit, in assisting us to erect houses, to procure seeds, farming implements, and stock, or in cash, as the President may direct.

"Third. That if at any time hereafter we, as a tribe, shall consent to permit cattle to be driven across our reservation or grazed thereon, the Secretary of the Interior shall fix the amount to be paid by parties so desiring to drive or graze cattle; all moneys arising from this source to be paid to us under such rules

and regulations as the Secretary of the Interior may prescribe.

"Fourth. That all the existing provisions of May seventh, eighteen hundred and sixty-eight, shall continue in force.

"Done at Crow Agency, Montana Territory, this twelfth day of June, anno Domini eighteen hundred and eighty."

SEC. 2. That the Secretary of the Interior be, and he is hereby, authorized to cause to be surveyed a sufficient quantity of land on the Crow Reservation to secure the settlement in severalty of said Indians as provided in said agreement, and upon the completion of said survey he shall cause allotments of land to be made to each and all of the Indians of said Crow tribe in quantity and character as mentioned and set forth in the agreement above named, and upon the approval of said allotments by the Secretary of the Interior he shall cause patents to issue to each and every allottee for the lands so allotted, with the same considerations, restrictions, and limitations mentioned therein as are provided in said agreement.

SEC. 3. That for the purpose of carrying the provisions of this act into effect the following sums, or so much thereof as may be necessary, be, and they are herby, set aside, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Interior as follows, namely:

For the expense of the survey of the lands as provided in the second section of this act, the sum of fifteen thousand dollars.

For the first of twenty-five installments, as provided in said agreement, to be used by the Secretary of the Interior in such manner as the

President may direct, the sum of thirty thousand dollars.

Approved, April 11, 1882.

CROW TRIBE EXHIBIT NO. 11-A

ORDINANCE

Be it Ordained by the Montana Constitutional Convention:

*** Page 48

2nd. That the people inhabiting said proposed State of Montana do agree and declare all right and title to the public lands lying in the boundary thereof, and to all lands lying within said limits, owned or held by any Indian or Indian tribes, and that, until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States: and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States. That the lands belonging to citizens of the United States residing without the said State of Montana shall never be taxed at a higher rate than the lands belonging to residents thereof. That no taxes shall be imposed by the said State of Montana on lands or property therein belonging, or which may hereafter be purchased by, the United States, or reserved for its use. But nothing herein contained shall preclude the said State of Montana from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, or has obtained from the United States or any person the title thereto, by

patent, or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any Act of Congress containing a provisio exempting the lands thus granted from taxation. But said last named lands shall be exempt from taxation by said State of Montana so long and to such extent as such Act of Congress may prescribe.

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*** Page 533

Mr. Conrad, of Choteau: I would like to offer a resolution and ask that it be referred to the same committee.

The President: The gentleman from Choteau offers the following resolution which the Clerk will read.

The Clerk read as follows:

"Resolved that all Indian reservations within the state of Montana shall be under the jurisdiction of the United States Court."

The President: If there be no objection this resolution will be received and referred to the Committee on Judiciary.

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*** Page 627

"Mr. President: Your committee on Judiciary, to whom was referred the resolution herewith returned relating to Indian reservations, have directed me to report that they have considered the same and are of opinion that this convention has no authority under the Enabling Act or the laws of Congress to take any

action in the matter, and your committee recommend that no action be taken.

August 3, 1889. Signed DIXON, Chairman."

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"ORDINANCES.

"Be It Ordained:

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*** P 628

"Ninth, that the people inhabiting said State of Montana do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States, that the lands belonging to citizens of the United States residing without the said State of Montana so shall never be taxed at a higher rate than the lands belonging to residents thereof: that no taxes shall be imposed by the said State of Montana on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein contained shall preclude the said State of Montana from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title

thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, but said last named lands shall be exempt from taxation by the said State of Montana so long and to such extent as such act of Congress may prescribe.

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*** Page 878

The Clerk read Section 9 as follows: "Ninth. That the people inhabiting said State of Montana do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof and to all lands lying within said limits owned or held by any Indian or Indian Tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian leands shall remain under the absolute jurisdiction and control of the Congress of the United States, that the lands belonging to the citizens of the United States residing within the said State of Montana shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the said State of Montana on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein contained shall preclude the said State of Montana from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations and has obtained

from the United States or from any person a title thereto by patent or grant, save and except such lands as have been or may be granted to any Indian or Indians under any Act of Congress containing a provision exempting the lands this granted from taxation, but said last named lands shall be exempt from taxation by said State of Montana so long and to such extent as such Act of Congress may prescribe."

There being no amendment to Section 9, the Clerk read Section 10.

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*** Page 922

Second: That the people inhabiting said State of Montana do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States. That the lands belonging to citizens of the United States residing without the said State of Montana shall never be taxed at a higher rate than the lands belonging to residents thereof. That no tax as shall be imposed by the said State of Montana or lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein contained shall preclude the said State of Montana from taxing as other lands are taxed any lands owned or held by any Indian who

has served his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation: but said last named lands shall be exempt from taxation by the said State of Montana so long and to such extent as such act of Congress may prescribe.

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CROW TRIBE EXHIBIT NO. 14

*** Page 989

CHAP. 543.—An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and ninety-two, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department for the year ending June thirtieth, eighteen hundred and ninety-two, and fulfilling treaty stipulations with the various Indian tribes, namely:

For pay of fifty-eight agents of Indian affairs at the following named agencies, at the rates respectively

indicated, namely:

At the Warm Springs Agency, at one thousand two hundred dollars;

At the Klamath Agency, at one thousand two hundred dollars;

At the Grand Ronde Agency, at one thousand two hundred dollars;

At the Siletz Agency at one thousand two hundred dollars;

At the Umatilla Agency, at one thousand two hundred dollars;

At the Neah Bay Agency, at one thousand two hundred;

At the Yakama Agency, at one thousand eight hundred dollars;

At the Colville Agency, at one thousand five hundred dollars;

At the Puyallup (consolidated) Agency, embracing Nisqually and S'Kokomish and Quinaielt Agencies, at one thousand six hundred dollars;

At the Tulalip Agency, at one thousand two hundred dollars;

At the Round Valley Agency, at one thousand five hundred dollars;

At Hoopa Valley Agency, at one thousand two hundred dollars;

At the Mission Tule River (consolidated) Agency, at one thousand six hundred dollars.

At the Nevada Agency, at one thousand five hundred dollars;

At the Western Shoshone Agency, at one thousand five hundred dollars;

At the Nez Perces Agency, at one thousand six hundred dollars;

At the Lemhi Agency, at one thousand two hundred dollars;

At the Fort Hall Agency, at one thousand five hundred dollars;

At the Flathead Agency, at one thousand five hundred dollars;

At the Blackfeet Agency, at one thousand eight hundred dollars;

At the Crow Agency, at two thousand dollars;

At the Fort Peck Agency, at two thousand dollars;

At the Fort Belknap Agency, at one thousand five hundred dollars;

At the Tongue River Agency, at one thousand five hundred dollars;

At the Yankton Agency, at one thousand six hundred dollars;

At the Crow Creek and Lower Brule Agency, at one thousand eight hundred dollars;

At the Standing Rock Agency, at one thousand eight hundred dollars;

At the Cheyenne River Agency, at one thousand five hundred dollars;

At the Fort Berthold Agency, at one thousand five hundred dollars;

At the Sisseton Agency, at one thousand five hundred dollars;

At the Devils Lake Agency, at one thousand five hundred dollars;

At the Pine Ridge Agency, at two thousand two hundred dollars;

At the Rosebud Agency, at two thousand two hundred dollars;

At the Shoshone Agency, at one thousand five hundred dollars;

At the Uintah and Ouray Agency (consolidated), at one thousand eight hundred dollars;

At the Pueblo and Jicarilla Agency, at one thousand five hundred dollars;

At the Navajo Agency, at two thousand dollars;

At the Mescalero Agency, at one thousand six hundred dollars;

At the Southern Ute Agency, at one thousand four hundred dollars;

At the Omaha and Winnebago Agency, at one thousand six hundred dollars;

At the Santee Agency, at one thousand two hundred dollars;

At the Pottawatomie and Great Nemaha Agency, at one thousand two hundred dollars;

At the Ponca, Pawnee, Otoe, and Oakland Agency, at one thousand five hundred dollars;

At the Sac and Fox Agency, Oklahoma Territory, at one thousand two hundred dollars;

At the Quapaw Agency, at one thousand five hundred dollars; and not more than one thousand two hundred dollars of any moneys appropriated by this act shall be expended for clerical labor at this agency;

At the Osage Agency, at one thousand eight hundred dollars;

At the Cheyenne and Arapaho Agency, at two thousand two hundred dollars;

At the Kiowa Agency, at two thousand dollars;

At the Union Agency, at Fifteen hundred dollars;

At the White Earth Agency, at one thousand eight hundred dollars;

At the Sac and Fox Agency, Iowa, at one thousand dollars;

At the Green Bay Agency, at two thousand dollars;

At the La Pointe Agency, at two thousand dollars;

At the New York Agency, at one thousand dollars;

At the Colorado River Agency, at one thousand five hundred dollars;

At the Pima Agency, at one thousand eight hundred dollars;

At the San Carlos Agency, at two thousand dollars;

For the Eastern Cherokee Agency, eight hundred dollars; in all, ninety thousand two hundred dollars; and all provisions of law fixing compensation for Indian agents in excess of that herein provided are hereby repealed.

For the payment of necessary interpreters, to be distributed in the discretion of the Secretary of the Interior, twenty-five thousand dollars; but no person employed by the United States and paid for any other service shall be paid for interpreting.

For pay of five Indian inspectors, at three thousand dollars per annum each, fifteen thousand dollars.

For necessary traveling expenses of five Indian inspectors, including telegraphing and incidental expenses of inspection and investigation, eight thousand dollars.

Pay of one superintendent of Indian schools, four thousand dollars.

Necessary traveling expenses of one superintendent of Indian schools, including telegraphing and incidental expenses of inspection and investigation, two thousand dollars: *Provided,* that he shall be allowed three dollars per day for traveling expenses when actually on duty in the field, exclusive of cost

of transportation and sleeping-car fare: *And provided*, That he shall perform such other duties as may be imposed upon him by the Commissioner of Indian Affairs, subject to the approval of the Secretary of the Interior.

For buildings and repair of buildings at agencies, thirty thousand dollars.

For contingencies of the Indian service, including traveling and incidental expenses of Indian agents, and of their offices, and of the Commissioner of Indian Affairs, and of such person as may be detailed to accompany him, also traveling and incidental expenses of five special agents, at three dollars per day when actually employed on duty in the field, exclusive of transportation and sleeping-car fare, in lieu of all other expenses now authorized by law; for pay of employees not otherwise provided for, and for pay of five special agents at two thousand dollars per annum each, forty-five thousand dollars.

For the expenses of the Commission of citizens, serving without compensation, appointed by the President under the provisions of the fourth section of the act of April tenth, eighteen hundred and sixty-nine, five thousand dollars.

For reimbursing Anderson Healy for loss sustained by him as contractor on account of delay in the erection of a school building at Poplar Creek, Montana, such delay being caused by order of the Commissioner of Indian Affairs, fifty-nine dollars.

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CROW TRIBE EXHIBIT NO. 67

CONSTITUTION AND BYLAWS OF THE CROW TRIBE
(as amended)

PREAMBLE

The Crow Tribe of Indians, in an effort to enforce the respect of their basic human, constitutional and treaty rights, do hereby re-establish the Crow Tribal Council to represent, act and speak for the Crow Tribe in any and all tribal matters, and to promote the general welfare of the Crow Tribe, do adopt the following constitution and bylaws for the conduct of Crow Tribal matters in conjunction with the lawful right of the Bureau of Indian Affairs to conduct same.

ARTICLE I

The Crow Tribal Council shall be composed of the entire membership of the Crow Tribe.

ARTICLE II (Res. 62-11)

The council shall elect every two (2) years, in conformity to its rules of procedure, a Chairman, Vice-Chairman, Secretary and Vice-Secretary. The Chairman shall have no vote unless there be a tie vote before the council. The election for these officers shall be held the second Saturday of May every other year after May 12, then the first election shall be held under this constitutional change. Officials are to assume their duties July 1, after election.

ARTICLE III

Any duly enrolled member of the Crow Tribe, except as herein provided, shall be entitled to engage in the deliberations and voting of the council, provided the females are 18 years old and the males 21 years.

ARTICLE IV

All nominations for officers of the council and any other tribal matter before the council shall be by voice, standing, hand-raising or secret ballot, as the council shall elect at each of its meetings.

ARTICLE V

The Crow Tribe, through its tribal council, reserves unto itself the right to remove for cause any officer of the council, for misconduct or negligence or non-diligence in connection with the protection of the rights of the Crow Tribe in its relations with the Bureau of Indian Affairs or the local employees.

ARTICLE VI (res. 62-11)

The Powers, Duties, and Functions of the Council:

1. The Council shall establish its own rules of procedure.

2. Meetings. There shall be regular tribal council meetings held each year on the second Saturday of January, the second Saturday of April, the second Saturday of July, and the second Saturday of October, and as many additional meetings shall be held as tribal business may require. All meetings shall be called by the Chairman and the Committee.

3. Notice of Meetings and Agendas. It shall be the duty of the Secretary, or in his absence, the Vice-Secretary of the Crow Tribal Council to give notice of all tribal council meetings of the Crow Tribe in writing for a period of at least seven days prior to each meeting date. Notices shall be posted at one public place in each district of the reservation, and at the Agency Headquarters, and, where possible, in the local newspapers and by radio broadcast. Notices in addition to the date, time and place of the

meeting, shall list in numerical order the business to come before the tribal council meeting. No business shall be transacted at the meeting unless it has been included in the public notice. Copies of proposed resolutions or other business to be considered shall be furnished to the elected district representatives by the Tribal Secretary seven (7) days prior to meeting dates.

4. Items of business. Agenda of the tribal council meeting shall include all items required by the (1) Tribal Chairman and committee, (2) Superintendent of the Crow Agency, and (3) any petition duly signed by 100 qualified voters. All requests to the Chairman and committee for a general council meeting shall be in writing and shall clearly state the nature of the business to be presented before the general council.

5. If the Commissioner of Indian Affairs desires to present any matter to the council for its action, such request shall be presented in writing to the Chairman or the committee, who shall as herein provided, advertise such request as provided, and set the date for the council sessions.

6. Except where otherwise specified in this constitution and by-laws, decisions of the council shall be by a simple majority of the vote cast.

7. The council shall perform the duties assigned to it under this constitution and bylaws and shall have such powers in addition to those expressly conferred on it thereunder as may be necessary to achieve its effective operation and to realize its objective.

8. All matters presented and coming before the Crow Tribal Council to be voted upon by the members of the Crow Tribe shall be decided and determined by a simple majority vote.

9. There shall be a committee composed of two (2) members from each of the six districts of the Crow

Reservation and two (2) members from off-the-reservation Indians elected for a term of two (2) years, in accordance with the tribal council's rules of procedure, to act as an executive committee to work with the officers under the general direction of the council. The first election of these committee members shall be held within 30 days from and after adoption of this constitutional amendment, and all subsequent elections to be held the second Saturday of the month of May at 2-year intervals on alternate years from the tribal officials election. Each district shall select its own election judges from within said district whose expenses shall be paid from the tribal funds. The result of such elections shall be final and conclusive.

10. The Crow Tribe, through the Crow Tribal Council, shall have the power to levy, assess and collect taxes and license fees upon non-members of the Crow Tribe doing business within the boundaries of the Crow Indian Reservation, subject to review by the Secretary of the Interior.

ARTICLE VII

Status and Functions of the Council:

1. The Crow Tribal Council is the voice of the Crow Tribe.

2. The Crow Tribal Council is the medium, the body, the tribal organization through which the Crow Tribe speaks to the government and the general public.

3. The Council, representing the entire Crow Tribe, shall voice the opinions, wishes, sentiment, hopes and decisions in any and all tribal matters for the Crow people to the Congress and the Interior Department, by resolutions and through tribally elected

delegates who shall, under the instructions of the council, proceed to Washington or elsewhere to present in person such decisions and their own arguments and appeals in support thereof as the council shall direct by majority vote.

4. Subject to existing Federal law which endows the Congress with plenary powers over the Indians in their tribal state, and which in turn passes such authorities down the line to the Secretary of Interior and the Commissioner of Indian Affairs. who by regulations based upon acts of the Congress, control the management of Indian Affairs subject to constitutional limitations. The Crow Tribal Council without legal status as such, but being the mouth piece and the voice of the Crow people, will from time to time call to the attention of the Congress its views and wishes with respect to the administration of its rights, property and affairs by the Bureau of Indian Affairs.

5. Because of existing law governing Indian administration by Congress herein pointed out, the Crow Council admits its limited authority in the administration of its own tribal matters, but also, understanding the constitution limitations of the government in this same field, the Crow Tribal Council will sponsor all legislation with state, federal and local governments on behalf of the Crow Tribe, and will, through tribal council resolutions and elected delegates and representatives, consult with and otherwise deal with representatives of the department of the government of the United States on all matters affecting the interests of the Crow Tribe.

6. The Crow Tribal Council, which encompasses the entire membership of the Crow Tribe, so far as the Crow people are concerned, shall be supreme in determining by a majority vote of those attending,

any course of action taken which is designed to protect Crow tribal interests.

7. The American system of "majority rule" used in the Congress of the United States shall prevail in the decisions of the Crow Tribal Council in regularly called and duly assembled conventions, and its majority decisions shall be conclusive and binding over the losing minority.

8. The Bureau of Indian Affairs, being a part of the United States Government, shall in no wise interfere directly or indirectly through its field representatives or agents with the deliberations or decisions of the Crow Tribal Council. The council, existing under the legal handicaps herein pointed out, belongs to the Crow Tribe only, and not the government, and such will make its decisions without Indian Bureau interference or advice, inasmuch as the Indian Bureau, under the broad powers in Indian administration conferred upon the Congress and the Indian Department by both the Congress and the courts, can and does nullify Indian tribal council actions the country over when same take issue with its own views. However, the Crow Tribal Council, regardless of same, hereby reserved unto itself the right to initiate moves looking to the protection of Crow Tribe rights and interests under their treaties and under the American constitution guaranteeing all basic human rights to all who live under the American flag, and to the equal protection of the laws of our country.

9. The Crow Tribal Council in a duly called session will decide the manner of voting, whether by districts or in the council itself or whether by secret ballots in the districts or in the council, and on this issue the local Indian Bureau representatives will have no voice whatsoever—the council reserves this

right unto itself.

10. Every member of the Crow Tribe, outside of the exception herein provided for, shall have equal opportunities to discuss any and every question of tribal concern before the council, and to participate without interference, in all votes taken upon any such questions.

ARTICLE VIII (Res. 62-11)

1. This Constitution and Bylaws shall be amended by a majority vote of the qualified voters of the Crow Tribe voting at an election called for that purpose by the Tribal Council, provided that no amendment shall become effective until it shall have been approved by the Commissioner of Indian Affairs or his authorized representative.

2. All eligible tribal members may vote at such duly called elections. The enactment of rules and procedure for conducting such an election shall be the responsibility of the tribal council. The tribal council shall enact an election ordinance.

ARTICLE IX (Res. 67-18)

1. The Crow Tribe through the Crow Tribe Council shall have power to establish, own, operate maintain and engage in any business or business enterprise, either as sole owner and operator, or jointly with any person, firm or corporation, or jointly with any agency or department of the Government of the United States of American, and for the purpose of carrying out the powers herein set forth the Crow Tribal Council is authorized and empowered to use and expend tribal funds of the Crow Tribe.

AMENDMENT
CONSTITUTION AND BYLAWS
OF THE
CROW TRIBAL COUNCIL

AMENDMENT

The Constitution and Bylaws of the Crow Tribal Council shall be amended by adding Article IX, which shall read as follows:

ARTICLE IX

SECTION 1. The Crow Tribe through the Crow Tribal Council shall have power to establish, own, operate, maintain and engage in any business or business enterprise, either as sole owner and operator, or jointly with any agency or department of the Government of the United States of America. For the purpose of carrying out the powers herein set forth, the Crow Tribal council is authorized and empowered to use and expend tribal funds of the Crow Tribe.

Approved:

(SGD) ROBERT L. BENNETT

Commissioner of Indian Affairs
Washington, D.C.

Date: December 23, 1966

BYLAWS

ARTICLE I

Duties of Crow Tribal Council

1. The Chairman of the Counsil shall preside over all meetings of the council, perform all duties of the Chairman and exercise any and all authority detailed by the Council, and shall be entitled to vote only in case of a tie.

2. The Vice-Chairman shall assist the Chairman when called upon to do so; in the absence of the Chairman, shall preside and when so presiding shall have all the privileges, duties, and responsibilities of the Chairman.

3. The Secretary of the Council shall forward a copy of the minutes of all the meetings to the Superintendent of the Reservation, and the Commissioner of Indian Affairs, and the Regional Director, and shall conduct all correspondence of the Council and shall keep all records and minutes of the meetings, records as to expenditures and allotment of tribal gratuitous and other funds over which the Council has sole charge.

4. The duties of all appointed special committees or officer of the Council shall be clearly defined by resolutions of the council at the time of their creation or appointment. Such committees and officers shall report from time to time as required to the Council and their activities and decisions shall be subject to review of the Council.

5. Regular and emergency meeting of the Crow Council shall be held on call of the Chairman at Crow Agency, Montana.

6. No business shall be transacted unless a quorum of 100 is present.

7. Order of business:
   (a) Call to order by Chairman
   (b) Reading of minutes of last meeting
   (c) Unfinished business
   (d) Reports

(e) New business
(f) Adjournment

8. It shall be the duty of the Chairman of the Council to duly notice all tribal council meetings of the tribe for a period of at least seven (7) days prior to such meeting date, for decisions of the Crow Tribe affecting the sale or lease of tribal property, or of legislative matters affecting the Crow Tribe.

9. A salary is to be paid to each officer or member of the Crow Tribal Council when serving as an authorized delegate as follows:

Within the state of Montana	$10.00 per day
Outside the state of Montana, with the exception of trips to Washington, D.C.	$15.00 per day
To Washington, D.C.	$25.00 per day

In addition to the above scales of salaries a per diem is to be paid each officer or member of the Crow Tribal Council computed in accordance with the U.S. Government Travel Regulations and in addition transportation via rail, air or personal care, whichever is "administratively" determined to be in the best interest of the Crow Tribe.

APPROVAL

Resolution No. 31 adopted February 3, 1955, approved by letter to the Chairman of the Crow Tribal Council from Commissioner Glenn L. Emmons dated March 18, 1955.

ARTICLE II

RATIFICATION OF CONSTITUTION AND BYLAWS

This Constitution and the attached Bylaws, when adopted by a majority vote of those attending District Councils called to vote on accepting a Constitution and Bylaws shall be binding upon the Crow Tribe.

CERTIFICATE OF ADOPTION

Pursuant to the Constitutional election held on June 24, 1948, this Constitution and Bylaws of the Crow Tribal Council of Montana, was adopted by a vote of 295 for and 130 against in an election in which 425 votes were cast.

/s/ Robert Yellowtail
Chairman, Tribal Council

/s/ George Hogan, Sr.
Secretary, Tribal Council

/s/ L.C. Lippert, Crow Agency

APPROVAL

This Constitution and Bylaws, having been proposed and ratified by the members of the Crow Tribe on June 24, 1948, at a referendum, is herewith approved.

/s/ William Zimmerman, Jr.
Assistant Commissioner

Washington, D.C., May 23, 1949

APPROVAL

This Constitution and Bylaws, having been proposed and ratified by the members of the Crow Tribe on June 24, 1948, at a referendum, is herewith approved.

(sgd) William Zimmerman, Jr.
Assistant Commissioner

Washington, D.C., May 23, 1949

RESOLUTION NO. 62-11

A RESOLUTION OF THE CROW TRIBAL COUNCIL PROVIDING FOR THE AMENDMENT OF THE CONSTITUTION OF THE CROW TRIBAL COUNCIL, BY ADDING TO AND CHANGING ART. II, ART. VII AND ART. VIII, BY MAKING CERTAIN CHANGES BY ADDING TO AND CHANGING ART. II, ART. VI, ADDITION SECTIONS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, ART. VIII, ADDITION SECTIONS 1, 2, AND FOR OTHER PURPOSES.

WHEREAS, there has been a need for certain changes in the Crow Tribal Constitution, it is deemed to be in the best interests of the Crow Tribe that Resolutions 107, 140, 145, 223, and 152, shall be, and the same is hereby rescinded, repealed and expunged from the Crow Tribal records;

AND WHEREAS, it is evident that the recession will enable tribal members to appoint committee members and delegates more democratically in accordance with certain existing provisions of the Crow Tribal Constitution:

NOW, THEREFORE, BE IT RESOLVED, by the Crow Tribal Council in Crow Tribal Council duly called and held this 18th day of December, 1961, that the Constitution of the Crow Tribal Council be, and hereby is amended by making the following changes in the present Crow Tribal Constitution, to-wit:

ARTICLE II

The council shall elect every two (2) years, in conformity to its rules of procedure, a Chairman, Vice-Chairman, Secretary and Vice-Secretary. The Chairman shall have no vote unless there be a tie vote before the Council. The election for these officers shall be held the second Saturday of May every other year after May 12, then the first election shall be held under this constitutional change. Officials are to assume their duties July 1, after election.

ARTICLE VI

The Powers, Duties and Functions of the Council:

1. The Council shall establish its own rules of procedure.

2. Meetings. There shall be regular Tribal Council meetings held each year on the second Saturday of January, the second Saturday of April, the second Saturday of July, and the second Saturday of October, and as many additional meetings shall be held as tribal business may require. All meetings shall be called by the Chairman and the Committee.

3. Notice of meetings and agendas. It shall be the duty of the Secretary, or in his absence, the Vice-Secretary of the Crow Tribal Council to give notice of all Tribal Council meetings of the Crow Tribe in writing for a period of at least seven days prior to each meeting date. Notices shall be posted at one public place in each district of the reservation, and at the Agency Headquarters, and, where possible, in the local newspapers and by radio broadcast. Notices in addition to the date, time and place of the meeting shall list in numerical order the business to come before the Tribal Council meeting. No business shall be transacted at the meeting unless it has been included in the public notice. Copies of proposed

resolutions or other business to be considered shall be furnished to the elected district representatives by the Tribal Secretary seven (7) days prior to meeting dates.

4. Items of business, Agenda of the Tribal Council meeting shall include all items required by the (1) Tribal Chairman and committee. (2) Superintendent of the Crow Agency, and (3) any petition duly signed by 100 qualified voters. All requests to the Chairman and committee for a general Council meeting shall be in writing and shall clearly state the nature of the business to be presented before the General Council.

5. If the Commissioner of Indian Affairs desires to present any matter to the council for its action, such request shall be presented in writing to the Chairman or the committee, who shall as herein provided, advertise such request as provided, and set the date for the council sessions.

6. Except where otherwise specified in this Constitution and By-Laws, decisions of the Council shall be by simple majority of the vote cast.

7. The Council shall perform the duties assigned to it under this Constitution and By-Laws and shall have such powers in addition to those expressly conferred on it thereunder as may be necessary to achieve its effective operation and to realize its objective.

8. All matters presented and coming before the Crow Tribal Council to be voted upon by the members of the Crow Tribe shall be decided and determined by a simple majority vote.

9. There shall be a committee composed of two (2) members from each of the Six Districts of the Crow Reservation and two (2) members from off-the-reservation Indians elected for a term of two (2) years, in accordance with the Tribal Council's rules

of procedure, to act as an executive committee to work with the officers under the general direction of the Council. The first election of these committee members shall be held within 30 days from and after adoption of this Constitutional amendment, and all subsequent elections to be held the second Saturday of the month of May at 2-year intervals on alternate years from the tribal officials election. Each district shall select its own election judges from within said districts whose expenses shall be paid from tribal funds. The results of such elections shall be final and conclusive.

10. The Crow Tribe, through the Crow Tribal Council, shall have the power to levy, assess and collect taxes and license fees upon non-members of the Crow Tribe doing business within the boundaries of the Crow Indian Reservation, subject to review by the Secretary of the Interior.

ARTICLE VIII

1. This Constitution and By-Laws shall be amended by a majority vote of the qualified voters of the Crow Tribe voting at an election called for that purpose by the Tribal Council, provided that no amendment shall become effective until it shall have been approved by the Commissioner of Indian Affairs or his authorized representative.

2. All eligible tribal members may vote at such duly called elections. The enactment of rules and procedure for conducting such an election shall be the responsibility of the Tribal Council. The Tribal Council shall enact an election ordinance.

AND, BE IT FURTHER RESOLVED, that the above listed changes are those which the Tribal Council wishes to make in the present Crow Tribal Constitution and shall do so regardless of any or all

other resolutions or provisions, and if other resolutions or constitutional changes are in conflict with the above stated rules they shall be henceforth repealed, rescinded and expunged from the records.

PASSED, ADOPTED AND APPROVED THIS 18th day of December, 1961, by the Crow Tribal Council at a duly assembled meeting of said council according to a notice given on December 11, 1961, in a duly called council, a quorum being present at Crow Agency, Montana. Votes for: *280;* Votes against: *none.*

/s/ Roger Stops
Chairman, Pro-tem
Crow Tribal Council

ATTEST:

/s/ Arthur R. Garrigus
Secretary, Pro-Tem
Crow Tribal Council

CROW TRIBE EXHIBIT NO. 71 i

RESOLUTION NO. 62-02-A

A RESOLUTION OF THE CROW TRIBAL COUNCIL RELATING TO HUNTING AND FISHING UPON THE CROW INDIAN RESERVATION.

Section 1. It shall be unlawful for any person, except members of the Crow Tribe, to hunt, fish or trap within the exterior boundaries of the Crow Indian Reservation.

Section 2. The Crow Tribal Council hereby requests that the United States Attorney serving for

the jurisdiction of the Crow Indian Reservation enforce the provisions of Sections 1164 and 1165 of the United States Code Annotated upon the Crow Indian Reservation.

Section 3. The Crow Tribal Council hereby authorizes the Chairman of the Crow Tribe to cause to be made and posted at all public entrances and highways of the Crow Indian Reservation signs and warnings, which shall read as follows:

"ENTERING CROW INDIAN RESERVATION—NO HUNTING OR FISHING ALLOWED EXCEPT BY CROW TRIBAL MEMBERS",

and there is hereby appropriated out of Crow Tribal funds an amount not exceeding one thousand and no/100 ($1,000.00) Dollars for the purpose of painting and posting such signs and warnings.

PASSED, ADOPTED AND APPROVED by the Crow Tribal Council this 11th day of August, 1961, by *unanimous* votes for passage, adoption and approval and *no* against.

/s/ John P. (Unintelligible)
Chairman, Crow Tribal Council.

/s/ (Unintelligible)
Secretary, Crow Tribal Council

The above resolution No. 62-02-A adopted 8-11-61 is hereby approved under authority delegated by secretarial order No. 2308, January 11, 1949, 114 P.R. 230-2001 and order No._____. Amend. 45 (2— P.R. _____. 10/20/____.

(sgd) Reinholt Brust
Assistant Area Director

I Recommend X
/s/ Ott. K. Weaver
Superintendent, Crow Indian Reservation.

CROW TRIBE EXHIBIT NO. 71 j

CROW INDIAN AGENCY

Crow Agency, Montana

Through: Superintendent, Crow Agency

Mr. John B. Cummins
Chairman, Crow Tribal Council

Dear Mr. Cummins:

We are returning Resolution No. 62-02-A, August 11, 1961, approving the use of $1,000 in your program Contingency Account for painting and posting of signs and warnings as outlined in Section 3.

Sections 1 and 2 are not subject to Bureau action as referred to in this resolution.

Appropriate entries should be made in your accounts to show the transfer of $1,000 from 2651 I.G. (Contingency Account) to Account 2651 1.D. (Tribal Projects). Costs of the operation will then be charged to 2651 1.D.

The sign wording as stated in Section 3 is not fully in accord with the provisions of 18 U.S.C. 1164 and 1165 (74 Stat. 469). Careful consideration should be given to the intent of the law in developing the signs to avoid any misunderstandings or erroneous statements.

Sincerely yours,

Area Director

Attachment

cc: Superintendent, Crow Agency

J.E. Duffy/gb

CROW TRIBE EXHIBIT NO. 71-k
RESOLUTION NO. 64-20

A RESOLUTION CONCERNING TRESPASS PERMIT, IDENTIFICATION CARDS, VARIOUS HUNTING REGULATIONS, AND TO APPOINT TWO ALTERNATE TRIBAL GAME WARDENS, AND FOR OTHER PURPOSES.

WHEREAS, the Crow Tribe under its new form of organization, and the establishment of additional staff members to manage its affairs and its property in accordance with the Task Force Report, and

WHEREAS, the need to undertake a portion of management of the businesses and affairs of the tribal assets is an educational project; the Crow Tribe now wishes to assume the management of hunting, fishing, and trespassing within the exterior boundaries of the Crow Reservation, so, now, therefore

BE IT RESOLVED that all hunting, fishing, and trespass permits issued by the Crow Tribe shall henceforth be issued only by the duly elected Crow Tribal Officials, the Tribal Chairman or the Tribal Secretary of the Crow Tribal Council, and

BE IT FURTHER RESOLVED that no non-Crow Indian, nor any other *person except an enrolled member of the Tribe, shall be allowed to hunt, fish, or trespass upon the Crow Indian Reservation, except that non-tribal members married to enrolled tribal members may be allowed to hunt, fish, and trespass*

if they show proof of marriage and secure an *Identification Card and a permit* at the Crow Tribal Office and have these upon their person for examination at any time by the Game Wardens, or officers, and the provisions herein provided shall be noticed by letter to the Montana Fish and Game Commission, and

RESOLVED FURTHER that the Crow Tribe wishes to appoint two (2) Crowe tribal members of act as alternates for the present acting Game Wardens; these alternate Game Wardens to be on call in the event that one or more of the present Game Wardens become ill or otherwise cannot remain on duty, and the election of these two (2) alternates shall be held upon the adoption of this resolution by the Crow Tribal Council, and

BE IT RESOLVED FURTHER that any resolution or resolutions previously passed that may be in conflict with any portion of this resolution shall herewith be repealed, rescinded, and expunged from the Crow Tribal records.

PASSED, ADOPTED AND APPROVED, this 16 day of November, 1963, a quorum being present by a vote of_____for and_____against.
_____x_____Unanimous.

_____
CHAIRMAN, CROW TRIBAL COUNCIL

ATTEST:

_____
SECRETARY, CROW TRIBAL COUNCIL

I recommend_____

I do not recommend_____

_____

SUPERINTENDENT, CROW INDIAN AGENCY

CROW TRIBE EXHIBIT NO. 71-L

December 3, 1963

Memorandum

To: Area Director, Billings Area
Attention: Tribal Operations

From: Superintendent, Crow Agency

Subject:
Crow Tribal Resolution 64-20, "A Resolution Concerning Trespass Permits, Identification Cards, Various Hunting Regulations, and to Appoint Two Alternate Tribal Game Wardens, and for other purposes"

Resolution 64-20 is an expression of the Crow Tribal Council concerning trespass permits, identification cards, various hunting regulations and two alternate game wardens.

This resolution was enacted at the general council meeting of November 16, 1963 and establishes a method of controlling hunting, fishing and trespassing on the Crow tribal lands of the reservation.

I have no objections to this resolution and feel that

the Tribe should be encouraged in the handling of problems of this type.

As the Tribe wishes to have game wardens patrolling this area, we feel that the appointment of two alternate game wardens to relieve any of the regularly appointed game wardens in cases of absence or illness is commendable and this portion of the resolution should also be approved.

Otto K. Weaver
Superintendent

Acting Superintendent

Enclosures.

CROW TRIBE EXHIBIT NO. 71-M

Tribal Operations 064

JANUARY 13, 1964

Through: Superintendent, Crow Agency

John B. Cummins, Chairman

Crow Tribal Council

Dear Mr. Cummins:

The letter is in reference to Resolution No. 64-20 which concerns trespass permits, identification cards, various hunting regulations, and among other things, the appointment of two alternate game wardens.

The Crow Tribal Council is commended for their progressive thinking in improving their organization, expanding of their staff, and their desire to undertake a portion of management of the businesses and affairs of the tribal assets.

The Superintendent formerly had the discretionary responsibility to close certain areas of the Reservation during dangerous fire seasons. We feel that this service is very important to the Tribe and should not be curtailed. We therefore concur with Resolution No. 64-20 with the understanding that the resolution to assume tribal control of the hunting, fishing, and trespassing is not in conflict with the Superintendent's emergency discretionary authority to close certain areas of the Reservation except to those persons who are considered indispensable for protection of Crow tribal lands and forest and who may be given permission to enter either by the Superintendent or Crow tribal officials.

Sincerely yours,

(Sgd) James F. Canaa

Area Director

enclosure

cc: Superintendent, Crow Agency, w/c res.
AD L & O, w/c res. & inc. memo

Commissioner, Att: Tribal Oper., w/c res : inc. carres

IChism/WMcDonald/JAhtone/kb 1/13/64

CROW EXHIBIT NO. 71 MM-1

RESOLUTION OF THE CROW TRIBAL COUNCIL RELATING TO IMPROVING THE HUNTING AND FISHING ON THE CROW RESERVATION BY ENTERING INTO A MEMORANDUM OF AGREEMENT THE BUREAU OF SPORTS FISHERIES AND WILDLIFE FOR MANAGEMENT ASSISTANCE.

WHEREAS, The Crow Indian Reservation's fish and wildlife resourse provide food and enjoyment to tribal members and

WHEREAS, the Crow Tribe is interested in promoting the recreation and fishing use by non-Indians of the Big Horn River area below Yellowtail Dam and

WHEREAS, The Bureau of Sports fisheries and Wildlife has been designated by the secretary of Interior to provide Indian tribes with technical advice concerning management of their fish and wildlife resources and to make available the planting stock required by the management plans prepared in cooperation with the tribes and

WHEREAS, it is in the best interest of the Crow Tribe to secure the advise of the people trained in fish and game management and to secure the fish necessary to make the Big Horn River the premium trout stream it can be, now THEREFORE BE IT RESOLVED, the Tribal Officers are hereby directed to enter into a memorandum of agreement with the Bureau of Sports Fisheries and Wildlife for the purpose of providing the Crow Tribe with fish and wildlife management plans and the planting stock required these plans to improve the hunting and fishing on the reservation and said memorandum will in no way jeopardize any Crow Tribal hunting,

fishing or water rights provided for by the treaty or law.

AND BE IT FURTHER RESOLVED THAT THE CROW TRIBAL RECREATION COMMISSION'S plan of operation be modified to include master planning for Crow Tribal development of the fish, wildlife, and recreation resources on the Reservation and appoint one of its members to work closely with the Bureau of Sports Fisheries and Wildlife in all of its planning efforts.

PASSED, ADOPTED AND APPROVED this 30th day of June 1970 A.D. with UNAMUNOUS votes for passage, adoption and approval and no votes against passage, adoption, and approval.

/s/ Edison Real Bird
Chairman, Crow Tribal Council

Attest:

/s/ Joseph Max Ten Bear
Secretary, Crow Tribal Council

APPROVED:

Super., Crow Indian Reservation

CROW TRIBE EXHIBIT NO. 71 MM-2

AUGUST 13, 1970

Through: Superintendent, Crow Agency

Mr. Edison Real Bird

Chairman, Crow Tribal Council

Dear Mr. Real Bird:

Resolution No. 70-51 enacted by the Crow Tribal Council on June 30, 1970, has been reviewed. The resolution authorizes Tribal officials to enter into an agreement with the Bureau of Sport Fisheries and Wildlive relative to a fisheries management program on the Crow Reservation. The resolution also amends the Crow Tribal Recreation Commission's Plan of Operation by extending the authority of that body to include master planning for development of the rich, wildlife and recreation resources on a reservation-wide basis.

In accordance with the requirements set out in paragraph II, of the recreation Commission's Plan of Operation, Resolution No. 70-51 *is hereby approved* and is effective from the date of its enactment.

Your progress in this phase of recreational development on the Crow Reservation is to be commended.

Sincerely yours,

(Sgd) Maurice W. Babby

Area Director

Acting Assistant

CROW TRIBE EXHIBIT NO. 71-qq

Administration November 14, 1973

Memorandum

To: Area Director, Billings Area Office
Attention: Tribal Operations

From: Superintendent, Crow Indian Agency

Subject: Resolution No. 74-05, Crow General Tribal Council

Enclosed are the original and five copies of Crow General Council Resolution 74-05 adopted October 13, 1973, restricting hunting and fishing on the Crow Reservation.

The resolution rescinds previous resolutions and adopts a lieu ordinance on the subject. The authority for approval of the ordinance is not with the Superintendent.

The resolution to disallow hunting and fishing on the Crow Indian Reservation expresses the feelings of the Crow people with regard to the ever increasing pressure on reservation game and abuse of hunting and fishing privileges. The tribe's desire to close the entire reservation reflects the grave concern of its members over the erosion of one of the most valued resources and hereditary rights. This office is convinced that the Crows concerns are well founded and that under existing circumstances their action is timely and fully justified. It is for this reason that action on the resolution should be studied and that consideration should include not only the Crows' legal rights to close the entire reservation but implementation of their effort to effect closure. The

reasons for the forthcoming recommendations are as follows:

1. Hunting pressure on the reservation has increased to a point where game is depleted or non-existent in vast areas. New highways, increases in population, prosperity and inflated food prices contribute greatly to the influx of sportsmen, meat hunters and poachers.

2. Regulation of hunting and fishing has become increasingly uncontrollable with the general public taking advantage of situations beyond the Crow Tribes' ability to control. The Crow Tribe is convinced that the Bureau of Indian Affairs and the State of Montana have not exhibited due concern nor have they reacted responsibly to help maintain controls.

3. Actions by the State of Montana and the National Park Service indicate that their unannounced policies are directed toward the development of the entire Crow Indian Reservation for hunting and fishing including the Tribal lands of the Big Horn Mountains, and without regard to the desires of the Crow Tribe of Indians. The attitude of the State of Montana and the National Park Service is naturally influenced by the constituency which they serve. The press of public opinion to open the entire reservation to hunting and fishing is overwhelming, except for the resistance of the Crow Indians.

4. Regulation of hunting and fishing on the reservation is ineffective under present conditions. Some conditions which contribute to ineffectual regulation of hunting and fishing are:

a. The general public has taken advantage of interspersed fee and Indian trust lands to utilize the whole reservation without respect to

land status because the State of Montana takes no responsibility for the policing of Indian lands, the Crow Tribe does not have the funds, the police force nor the authority to protect their lands and the Department of the Interior has not taken effective action to curtail violations. Enforcement is so impractical that with this knowledge and general public utilizes the whole reservation as a haven for unlimited hunting and fishing.

b. The permit system in force prior to this resolution brought in revenue estimated at $8,000. The FY 1972 Tribal Program spent $19,500 for Game Wardens and the FY 1973 Program has set up $95,000 for this purpose. It is difficult to understand why the Crow Indians should have to spend monies to perpetuate a system which encourages encroachment upon their lands and is of no tangible benefit to them.

The authority under which Tribal Game Wardens operate does not allow them to arest non-Indians for violations. They have no authority over non-Indians. The tribal wardens are not hired for the policing of Crow Indians who hunt and fish without restriction, season, or limits. Under these circumstances, it is incredulous to believe that the C row Indians should be able to protect their own interests.

c. *The State of Montana has only one Game Warden to police game violations in the whole of Big Horn County.* Enforcement by the state is only token to say the least and the state does not even give the appearance of recognizing that there is a problem.

d. The State of Montana has opened a big game season on Big Horn Lake which includes deer

and elk. This action is of great concern to the Crows. The area opened to hunting surrounds the entire Big Horn Lake and is limited to the lands within the Bureau of Reclamation take area for Yellowtail Reservoir. The federally owned land which is administered by the state for game management, consists of an area between the lakes high water level and a take line which is 35 feet higher at elevation 3675. The Crows sold the land to the federal government for the sold purpose of building a dam and reservoir. It was not the understanding that big game hunting would be permitted in this area.

It is felt that the State of Montana is taking advantage of an unintended situation to open a season here in the very heart of the Crows' most primitive area. Further, it is totally impractical to expect hunters to adhere to an unmarked takeline and the opening of a season here is an open invitation to encroachment on all reservation lands bordering the lake. The State of Montana has embarked on a course which fails to respect the rights or consider the feelings of the Crow Tribe.

The Crow Tribe's action to close the reservation to hunting and fishing is very unpopular with the general public. The reaction of the non-Indian business community is hostile toward tribal members and may result in economic sanctions being taken against the Crow people. The press is totally unfavorable to the Crows' cause. There are reports that off reservation jobs and employment are being threatened. Many state and federal employees who hunt and fish on the reservation own fee land on the reservation.

It is for these reasons that the Crow Tribe needs the full support of the Department of the Interior and the Bureau of Indian Affairs to close the reservation for an indeterminate period. If full closure is effected, then the tribe may give favorable consideration to the opening of seasons in a manner which is beneficial to the interests of the Crow people. Recommendations for action are as follows:

1. That the Secretary of the Interior approve the tribes closure of all Trust Indian lands on the reservation to non-Indian hunting and fishing and that the Bureau of Indian Affairs develop the enforcement personnel necessary to limit violations.

2. That the Bureau of Indian Affairs actively support the effort of the Crow Tribe to close all lands within the reservation boundaries. It is further recommended that the Bureau of Indian Affairs convey its support of this resolution to the State of Montana, citing detailed reasons as to why the reservation should be closed.

The Tribe has stated its intention of making refunds to all permit holders who request repayment.

Many people are anxious to know where they stand in respect to the enclosed resolution and ordinance.

Acting Superintendent

CROW TRIBE EXHIBIT NO. 71-rr

Law Enforcement Services

November 20, 1973

Through: Superintendent, Crow Agency

Mr. David J. Stewart

Chairman, Crow Tribal Council

Dear Mr. Stewart:

We are in receipt of Resolution Number 74-05. Since the Crow Tribe has authority to control hunting, fishing, and trespassing by non-Indians and Indians on Indian lands within the Reservation, no approval action is required of the Bureau. However, the following comments are for information and consideration of the Crow Tribal Council as they relate to enforcement of Federal laws.

Resolution Number 74-05 seeks to prohibit hunting, fishing, and trespassing by non-Indians on all land within the exterior boundaries of the Crow Indian Reservation. It also requests that proper officials of the United States and Crow Tribe enforce the provisions of Resolution Number 74-05 under whatever Federal statute prohibits such actions.

The Federal statute that pertains to hunting and fishing on lands within the exterior boundaries of the Crow Reservation is Public Law 86-634 enacted July 12, 1960. The law makes Federal Statute Title 18, U.S.C.A., Section 1165 applicable to Indian lands.

> Title 18, U.S.C.A., Section 1165, Hunting, trapping, or fishing on Indian land
>
> Whoever, without lawful authority or permission, willfully and knowingly goes upon any land that belongs to any Indian or Indian tribe, band or group and either are held by the United States in trust or are subject to a restriction against alienation imposed by the United States that are reserved for Indian use,

> for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish therefrom, shall be fined not more than $200 or imprisoned not more than ninety days, or both, and all game, fish, and peltries in his possession shall be forfeited.

Note that the provisions of Section 1165 apply specifically to:

1. Individual Indian trust land
2. Tribal trust land, and
3. Federal land held for Indian use

It appears that fee status lands even though they are within the exterior boundaries of the Reservation, were not included in the coverage of this act. Therefore the enforcement of Section 1165 on such fee land by Bureau of Indian Affairs or Tribal enforcement officers would not be authorized or prosecuted by the United States Attorney's office.

The State of Montana Fish and Game has indicated that they would be glad to meet with the tribal officials to discuss possible closure of fee land on the Reservation to all hunting and fishing, and particularly the mountain areas and the areas around Big Horn Lake. Whatever arrangements could be worked out with the State would make State law effective as it concerns non-Indian hunters and fishermen. If you are interested in such a meeting, let us know the date of your availability and we will gladly make the arrangements. It is suggested this meeting be before December 6 as we understand that is the date when the Fish and Game Commission prepares hunting regulations for the 1974 season.

There still seems to be some issue regarding boating and other use of the Big Horn River. This meeting may be helpful in clearing the existing problems in that field.

It is understood that the Crow Tribe is considering reimbursement to individuals who purchased Tribal Bird Hunting and Fishing Permits which were supposed to be valid from May 1, 1973 through April 30, 1974. We would be glad to assist in helping you set up an accurate accounting system which would be available for this procedure.

Resolution Number 74-05 has revoked the hunting and fishing permit system that was required for Indian lands. Upon posting of the Reservation stating that no hunting or fishing is allowed on Indian lands, enforcement officers will enforce the provisions of Section 1165 of Title 18, U.S.C.A.

Sincerely yours,

James F. Canan
(sgn) James F. Canan
Area Director

cc: Supt., Crow Agency

CROW TRIBE EXHIBIT NO. 74

ANNUAL REPORT OF THE
COMMISSIONER OF INDIAN AFFAIRS
TO THE
SECRETARY OF THE INTERIOR FOR
THE YEAR 1873.

WILKINSON, CRAGUN & BARKER

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1874.

OURAY. I would not object if Mr. Powell suits you, but I do not wish any one who lives in the Territory to come.

MR. BRUNOT. He is the explorer, and does not belong to the Territory.

OURAY. I would not object to him.

MR. BRUNOT. Do you think a council could be held and the white kept away?

MR. ADAMS. I think so. Ouray has given orders to his men to keep away from the miners. I heard some of the parties who were at the council last year would be back again.

MR. BRUNOT. I asked that none should come unless invited by the commission. I said that if Ouray wanted me to go, and the President asked me, if I could do any good to Ouray's people I would go. I said I would not go unless Ouray sent word that it would be of some use for me to come.

MR. ADAMS. You would want to see all the Ute Indians we can get to attend?

MR. BRUNOT. I would want to see all the Indians who can bet got together.

OURAY. Where are you going now?

MR. BRUNOT. To see the Crows. How long before you could get your people together, and when would be the best time for me to come?

OURAY. How long will you be at the Crows? You know how soon you could get to the Ute agency. In August the Utes will be hunting, but the captains can come in.

MR. BRUNOT. If a treaty is made it is necessary three-fourths of the people agree to it.

OURAY. I will talk with them and do what I can.

MR. BRUNOT. It used to be just what the chief said; but this treaty is different; it says three-fourths of the adult male Indians, and I want the treaty carried out. From now till August we will try and get Ouray's boy; and, if we can, we will take him with us. If we cannot get him, then Ouray must not be too sorry; we will still try and get him. I hope we will get him then.

OURAY. Bring the boy if you can; if you cannot I will be sorry.

MR. BRUNOT. We will do the best we can. Your boy talks English.

OURAY. Several years ago, when the Arapahoes came to Denver, I heard there was a Ute boy called Friday; but I never could see him.

MR. BRUNOT. They kept him away?

OURAY. I heard two or three years ago from a Mexican woman that the boy was alive. I would not know him.

MR. BRUNOT. When Ouray looked for the boy at Denver the Arapahoes kept him away, and we want to get him before the hide him now. I think you had better not tell your people the boy is coming, for if he does not, they will think something is wrong.

OURAY. I understand. I want to see the boy. The Utes understand you now. They have learned that you have worked good for other Indians before, and we think you will work good for us. I will tell them what you say, and they will know you are our friend.

Respectfully submitted.

THOMAS K. CREE,
Secretary.

* * * *

E.

REPORT OF THE COMMISSION TO NEGOTIATE WITH THE CROW TRIBE OF INDIANS.

SIR: We have the honor to report that under our appointment as special commissioners to negotiate with the Crow tribe of Indians, contained in your letter of May 1, 1873, viz:

Letter of the honorable Secretary of the Interior.

"DEPARTMENT OF THE INTERIOR.

"*Washington, D.C., May 14, 1873,*

"SIR: I have received your letter of the 21st ultimo, recommending the appointment of a special commission to visit the Crow tribe of Indians with a view of negotiating an agreement with the chiefs and head-men of said tribe of Indians in the Territory of Montana for the surrender of their reservation in said Territory, or of such part thereof as may be consistent with the welfare of said Indians, as provided by the act of March 3, 1873.

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REPORT OF COMMISSIONER OF INDIAN AFFAIRS.

"In compliance with said recommendation, I hereby appoint Hon. F.R. Brunot, of the board of Indian commissioners, *Col. E. C. Kemble, of New York, and H. E. Alvord, of Virginia, to constitute said commission, for the purpose named by you.

"Messrs. Kemble and Alvord will be allowed compensation at the rate of $8 per day, in addition to

their actual and necessary expenses, while engaged in the performance of this duty. Mr. Brunot will be allowed only his actual expenses.

"You will be pleased to prepare instructions for the guidance of said commission, a draught of which you will submit to this Department for its approval.

"Very respectfully, your obedient servant,

"C. DELANO,
"*Secretary.*

"THE COMMISSIONER OF INDIAN AFFAIRS."

and the instructions of the honorable Commissioner of Indian Affairs contained in the following letter:

Letter of the honorable Commissioner of Indian Affairs.

"DEPARTMENT OF THE INTERIOR,
"OFFICE OF INDIAN AFFAIRS,
"*Washington, D. C., May 31, 1873.*

"SIR: By the terms of an act of Congress approved March 3, 1873, it is provided: "That the Secretary of the Interior be, and he is hereby, authorized to negotiate with the chiefs and head-men of the Crow tribe of Indians in the Territory of Montana for the surrender of their reservation in said Territory, or of such part thereof as may be consistent with the welfare of said Indians: *Provided*, That any such negotiation shall leave the remainder of said reservation in compact form and in good locality for farming purposes, having within it a sufficiency of good land for farming, and a sufficiency for water and timber; and if there is upon such reservation a locality where fishing could be valuable to the Indians, to include the same, if practicable; and the Secretary shall report his action, in pursuance of this

act, to Congress, at the next session thereof, for its confirmation or rejection.'

"Pursuant to the provisions of the foregoing act, and in compliance with the directions contained in letter of the honorable Secretary of the Interior, under date of the 14th instant, you are informed that a special commission has been appointed, consisting of yourself, as chairman, in conjunction with *Col. E. C. Kemble, of New York, and H. E. Alvord, of Virginia, to visit the Crow tribe of Indians and negotiate an agreement with them to the end that the objects of said act may be affected.

"You will proceed to the Crow agency, and, after consultation with the United States agent for the tribe, will assemble the Indians in open council, at some point on the reservation deemed most desirable for the purpose, and explain to them the purport and objects of the act of March 3, 1873, and of your visit.

"The Crow reserve was established pursuant to the treaty with them concluded May 7, 1868, and is bounded as follows: 'Commencing where the 107th degree of longitude west of Greenwich crosses the south boundary of Montana Territory; thence north along said 107th meridian to the mid-channel of the Yellowstone River; thence up said mid-channel of the Yellowstone, to the point where it crosses the said southern boundary of Montana, being the 45th degree of north latitude; and thence east along said parallel of latitude to the place of beginning.'

"Such an extent of territory being greatly in excess of the quantity required for the necessities of the Indians, and the northern boundary thereof, throughout its entire length, being in close proximity to the proposed line of the Northern Pacific Railroad,

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*Changed to Gen. E. Whittlesey, of Washington, and James Wright, M. D., of Montana.

it is desirable that the Indians should relinquish to the Government at least a portion thereof, and consent to confine themselves within more circumscribed limits.

"It is with this end primarily in view that you should conduct your negotiations under the foregoing appointment.

"You will explain to the Indians that it is the desire of the Government that they should adopt agricultural and pastoral pursuits to the end that they may in time become self-sustaining and prosperous, and that in order to encourage them in the cultivation of such pursuits all possible aid will be afforded them in the way of stock and agricultural implements.

"Should you find them willing to relinquish upon reasonable terms any portion of their reservation to the United States, you will cause written articles of agreement to that effect to be prepared and duly signed by the chiefs and head-men of the tribe, and by each member of the commission. Such agreement must clearly describe the portion of the reservation ceded and the consideration to be paid therefor, expressed in such form as to admit of the largest discretion being exercised by the Department in relation to the manner of investing or expending such consideration for the welfare of the Indians.

"Portions of the reservation are very mountainous, and undoubtedly rich in minerals of different kinds. Many mining claims are now being worked by white settlers on the reserve, and, as reported by the agent, some of them were located before the country was set apart as a reserve for the Crows, and the miners in consequence claim priority of right. In view of these facts the agent has also heretofore recommended that the Crows should be induced to

code that portion of their reservation lying between the waters of the Big Horn and Yellowstone Rivers, as the only way in which satisfactory adjustment can be made of the difficulties that will otherwise inevitably arise between the miners and the Indians. You will, however, in negotiating with the Indians, be governed by your own judgment as to the portion most desirable for them to cede, taking due care that the portion retained by them shall be of a character best adapted to their necessities, with the end in view of their eventually becoming an agricultural and pastoral people.

"Care should also be exercised, in negotiating any agreement, that the portion of the reservation retained by the Indians for their use and occupancy shall be in compact form and in good locality for agricultural purposes, due regard being paid to the quantity of tillable land within its limits, as well as the sufficiency of the supply of water and timber. Also, if practicable, to include such fisheries as may be of value to the Indians as a means of furnishing them with supplies of food.

"It must also be clearly understood that any agreement made with the Indians will be of validity only upon its ratification by Congress, and this fact should be impressed at every opportunity thoroughly and forciby upon the minds of the Indians, in order that no misunderstanding relative thereto may exist on their part.

"Another matter to which you will give your attention is the contemplated change in the location of the Crow agency. The present location thereof is understood to be highly unfavorable and unsatisfactory to the Indians, being remote from timber, and having an insufficient quantity of good agricultural land in its vicinity, as well as being greatly exposed to high winds.

"You will consult with Superintendent Wright and Agent Pease in relation to this matter, and will obtain all the information in your power as to the most suitable point for locating such agency, and report your views concerning the same to this office.

"The duties enjoined upon you in the foregoing instructions will be entered upon immediately after the completion of the duties assigned you as chairman of the special commission to visit and negotiate with the Northern Sioux, parties to the treaty of 1868.

"You will be allowed your actual necessary expenses while engaged in the performance of the duties assigned you, vouchers for which, when practicable, should be obtained and submitted to this office with your account.

"You will submit a detailed report of your proceedings at the earliest day practicable, accompanied by such form of written agreement as may have been entered into with the Indians.

"Very respectfully, your obedient servant,

"EDW'D P. SMITH,
"*Commissioner.*

"Hon. FELIX R. BRUNOT,
"*Chairman Special Commission, Pittsburgh, Pa.*"

The special commission to negotiate a treaty with the Crow Indians have the honor to make the following report:

In accordance with the instructions of the honorable Commissioner of Indian Affairs, Felix R. Brunot, chairman of the commission, accompanied by Thomas K. Cree, secretary, arrived at Bozeman, July 7, 1873. Arrangements were at once made to gather all the Crow Indians at the agency for a council.

On the 29th of July, General E. Whittlesey and Dr. James Wright, members of the commission, arrived at Bozeman. The next day a conference of the commission was held. The chairman read to the commission the letter of the honorable Secretary of the Interior, of date May 14; the letter of the honorable Commissioner of Indian Affairs, of date May 31; report of Agent Pease, of date April 30; and the treaty made with the Crows at Fort Laramie, May 7, 1868.

July 31 we drove to the Crow agency, found that the main body of Indians had not yet arrived, but some thirty chiefs and head-men, representing the Mountain and River Crows, had been sent forward to meet the commission.

The next morning we had a conference with them, Blackfoot, the second chief of the Mountain Crows, being the spokesman. He informed us that the main body of the Indians were encamped some distance from the agency, and could not arrive before the 8th or 10th of August. He accounted for their delay in getting to the agency, after the arrival of the messenger in their camp, by the fact that they had been fighting a large war-party of the Sioux, who were following them, necessitating great care in the moving of the women, children, and camp-equipage; to the prevalence of skickness from which many had died, and to the high stage of water, which delayed them considerably, as there was great danger in crossing the swollen strreams. He told the commission that the party would return to the camp the following day, and would come back with it to the agency as expeditiously as possible. A full report of this conference will be found in the accompanying documents.

The main body of the River Crows left Benton in

good season to reach the agency, but, as we were informed, when some four days on their journey were stopped by parties interested in keeping them in the vicinity of the trading-posts on the Missouri River.

The main camp arrived at the agency August 8. The erysipelas was prevailing among them in a contagious form; many had died from it, and Iron Bull and Blackfoot the two principal chiefs, were both sick. Long Horse, the third chief and most prominent warrior, was in mourning for the death of his brother, who had been killed a few days before in the encounter with the Sioux.

The issue of provisions prevented the holding of a council the next day, the Indians giving as a reason for not wishing to come into council the sickness of Iron Bull and Blackfoot.

The council convened on the 11th of August. There were present, in addition to the members of the commission, General Sweitzer, commandant of Fort Ellis, Dr. Lightfoot, U.S.A., Captain Tyler and Lieutenant Rowe, of Company F, Second Cavalry, Major Pease, agent for the Crows, Nelson Story, *esq.*, of Bozeman, Charles Hoffman, trader several of the employees of the agency; and, of the Indians, Iron Bull, Blackfoot, and all the principal chiefs, and a large number of Indians representing both branches of the Crow tribe.

In opening the council the chairman expressed the regret he had felt at not meeting the Crows on a former visit, and the pleasure it gave himself and the other members of the commission to meet them at the present time. We then read and explained to the Indians the treaty made by them at Fort Laramie in 1868, the act of Congress of March 3, 1873, under which the commission was appointed, and the letter of instructions of the honorable Commissioner of Indian Affairs.

We dwelt upon the fact of the miners in large numbers being on the reservation; of the recent discovery of gold and silver mines; and of the danger of trouble unless the Indians were willing to sell a portion of their reservation, which was of little use to them, and accepting in payment a satisfactory sum of money that should be expended for their benefit.

We referred to the probability of the Northern Pacific Railroad coming along the Yellowstone, and that it might come upon their reservation; and we explained the necessity for a new location for the agency buildings, and offered to go with the agent and the Indians and select a new location for it. The council lasted four days. A full report of it will be found in the accompanying documents.

On the fifth day of the council, finding the Indians were not likely soon to come to an agreement, for the purpose of inducing an immediate decision, we formally closed the council.

Early the next morning all the chiefs and head-men came and expressed a desire to sign the agreement. After ascertaining that they fully understood the articles of convention, the chairman said, "You have come to tell us that you agree to the exchange of your present reservation on the Yellowstone for Judith's Basin, and wish to agree to the paper."

Iron Bull, Blackfoot, and all the chiefs said, "Yes, we all agree to it."

The Indians having expressed an unwillingness to touch then pen in making their mark, thinking it was "bad luck" to do so, the chairman said. "We wish you all to come, one at a time, and say 'yes' or 'no' to the paper. We wish you to bring in all the others, and they will say 'yes' or 'no,' and then none you say 'yes' can afterward say 'we did not agree to it.'"

The chiefs thought if they agreed to it, it was suf-

ficient, as all the tribe would abide by their decision, but we insisted that all should approve or disapprove of it.

They then came forward, and as each said "yes," his name was signed to the articles of convention.

All agreed to it, except one head-man named "Crazy," who refused to express an opinion either way.

Each, as he said "yes," asked that they might be permitted to eat buffalo for a long time, to which the commissioners responded "yes," as the Indians shook bands with them, respectively. Others asked for guns and horses; many asked that Agent Pease might be retained. To all of their requests the commissioners answered that there was nothing in the paper about these things, and that they only said "yes" to what was in the agreement, but told them when the young men went to Washington they could talk to the "Great Father" about giving them what they wished.

The necessity for the ratification by Congress of the articles of convention it was difficult to have them understand; but it was explained to them as fully as possible during the council. We made no promises to the Indians other than those contained in the articles of convention, and no conference in regard to it was held by us with the chiefs, or other Indians, except in public council.

The sessions of the council were all well attended, all the chiefs and head-men, and many Indian men and women, being present at every session; and we have every reason to think the action of the council meets with the almost unanimous approval of the Indians party to it.

The River Crows will, we doubt not, approve of the action of those representing them, as they have

always lived in the section of country now set apart as their reservation.

In accordance with the desire expressed by all the Indians in council and elsewhere, we authorized Agent Pease to take to Washington eight Indians, chiefs and others, representing both the Mountain and River Crows, to be accompanied by one interpreter. We were the more willing to take this action, for the reason that no member of the Crow tribe has ever been East, and their idea of "the white man's" power and civilization is very meager. Their steady friendship for the whites, whom they have always had every reason to suppose inferior to them in number and power, we thought also merited some return. The trip to the East will, we doubt not, prove of lasting benefit to the tribe.

The request made during and after the council, for a present of horses, we did not feel at liberty to accede to, yet we have no hesitation in recommending that such a present be made. At the time of making their former treaties, they have always been given horses, a present they prize above all others. In view of the advantages that will accrue to the Government from the arrangement entered into, and the fact that, while attending upon the sessions of the council, a large number of their horses were stolen, as well as in return for the friendship they have always exhibited for the whites, we would respectfully recommend that they be presented with one horse for each lodge or family. It is presumed that funds appropriated for beneficial purposes for the Crow tribe of Indians are available for this purpose.

We would call special attention to the last clause of the articles of convention, in which it is agreed upon the part of the commissioners that, "pending action by Congress, the United States shall prevent

all further encroachment upon the present reservation of the Crow tribe," and respectfully recommend that instructions be sent the agent to prevent all whites from passing over, settling upon, or residing in said territory, except such as are specially exempted by the treaty of 1868, and such others as are now engaged in mining in Emigrant Gulch; that he be directed to prevent all exploring parties or individuals from entering upon the reservation, and that any one engaged in hunting or trapping for game be arrested and turned over to the civil authorities.

We also respectfully recommend that, pending the action of Congress, the section of country described in the first article of the articles of convention be, by order of the President, withdrawn from market, and that it be declared not to be open for, or subject to, entry under the homestead or pre-emption laws. There are at present no settlers in any portion of this country, and this recommendation is made to prevent any such entering upon it, pending action by Congress. In case Congress should ratify the action of this commission, we would further respectfully recommend that agents of tribes, other than the Crows, be directed, as far as possible, to prevent them from hunting in Judith's Basin.

That Congress be requested to define the penalty for wolfing or killing game by means of poison in the section of country contiguous to the proposed reservation, as described in article fourth of the articles of convention.

That an appropriation be asked for the erection of agency buildings, in accordance with the provisions of the treaty of 1868, and that a commission be appointed by the honorable Secretary of the Interior to locate the agency at a suitable place in the Judith

Basin, as far south as is practicable, keeping in view the necessity for wood, water, grass, and a sufficient body of tillable land susceptible of easy irrigation, and not so elevated as to render crops uncertain.

Very respectfully submitted.
FELIX R. BRUNOT,
R. WHITTLESEY,
JAMES WRIGHT,
Commissioners.

Thomas K. Cree, *Secretary.*

Supplementary report by the chairman of the commission.

PITTSBURGH, *November 19, 1873.*

SIR: In addition to the report of the Crow commission, prepared by the secretary under the direction of my colleagues when *en route* from the agency, and already in your hands, I have the honor to submit a brief explanation of the reasons influencing the commission in their negotiations.

The official instructions seemed to contemplate mainly the purchase of the western portion of the reserve, but your letter to the chairman was understood to leave a wider discretion with the commission.

We found that the principal region already occupied by the miners was along Emigrant Gulch, extending thirty or forty miles eastwardly into the mountains from the western border of the reserve, and upon Clarke's Fork of the Yellowstone River, and that the prospectors were gradually extending their operations, and could not long be prevented from overrunning the entire mountain region boun-

ded by Clark's Fork and the Yellowstone River. The Indians claimed the country around the heads of Clarke's Fork and the east branches of the Yellowstone in Wyoming Territory; and, although not upon the reserve, it was impossible to convince them that it had not been originally included. We also found that the topographical features of the country were such as to admit of no dividing-line, west of Pryor's Creek, which would be satisfactory either to the commission or the Indians; or which would not, if adopted, become, very soon, the cause of serious misunderstanding and contention between the whites and Indians.

The portion of the reserve which lies east of Clarke's Fork, and includes Pryor's Creek, is within the limits of the country claimed by the Sioux as their hunting grounds. It is constantly frequented by them in large bands for the purpose of fighting the Crows, and is the battle-ground upon which the two tribes often meet.

The Sioux largely outnumber the Crows, and have even extended their raids against them to the present agency. To remove this friendly tribe to so close a proximity to their powerful enemies would be wrong, and would involve the necessity of a military fort, and a considerable force for their protection, which would be costly and inexpedient.

The commission further considered that the Northern Pacific Railroad would be located for three hundred miles along the present reservation, and one or more roads already projected from the southward would pass through it, and that the valley of the Yellowstone, and the valleys of the many fine streams emptying into the south side of that river, affording some of the choicest lands in the West for cultivation and stock, would, when thus rendered ac-

cessible to the whites, be irrepressibly demanded for their use, and make the removal of the Crow Indians a necissity.

To anticipate this necessity while there yet remained unoccupied a more retired district of country suitable to their needs, and which could be given to them, seemed of incalculable importance to the future welfare of the Indians. Postponement of the selection of a proper location for a few years would probably leave no place for them but the cold and arid region north of the Missouri River. On the other side, it was considered that the peaceable release of the fine body of land included in the Crow reserve, already partially occupied, and the possession of which must soon seem a necessity, and the avoidance of future possible controversy and bloodshed between the whites and its proper owners, was of the greatest importance to the Government.

The Judith Basin, lying out of the present and prospective line of migration, surrounded by a belt of mountains and barren lands destitute of valuable ores to attract their cupidity, and relatively inaccessible to the whites, yet possessing within itself the necessary requisites for farming—land, grass, wood, and water—and not too large for the future needs of the Indians, seemed peculiarly adapted for the purpose of a reservation.

The sum of money agreed to be invested for the Indians is a very moderate price for the quantity of land they relinquish. Probably a larger sum than the interest of the capital funded would in any event be required to be expended annually for their maintenance until they become self-supporting. Hence the ratification of the contract would involve no additional expenditure on the part of the Government.

I desire, in behalf of myself and colleagues, to ex-

press our obligations to Col. N. B. Sweitzer, commanding Fort Ellis, for facilities furnished and efficient co-operation; and to himself and to all the officers of the fort for many personal courtesies and attentions; also to Agent F. D. Pease and the employes of the agency, for their zealous co-operation.

Respectfully submitted.

FELIX R. BRUNOT,
Chairman of Commission.

Hon. C. DELANO,
Secretary of the Interior.

Articles of convention made and concluded on the sixteenth day of August, in the year of our Lord one thousand eight hundred and seventy-three, at the Crow agency, in the Territory of Montana, by and between Felix R. Brunot, E. Whittlesey, and James Wright, commissioners in behalf of the United States, and the chiefs, head-men, and men representing the tribe of Crow Indians, and constituting a majority of the adult male Indians belonging to said tribe.

Whereas a treaty was made and concluded at Fort Laramie, Dak., on the seventh day of May, in the year of our Lord one thousand eight hundred and sixty-eight, by and between commissioners, on the part of the United States, and the chiefs and head-men of and representing the Crow Indians, they being duly authorized to act in the premises;

And whereas by an act of Congress, approved March 3, 1873, it is provided, "That the Secretary of the Interior be, and he is hereby, authorized to negotiate with the chiefs and head-men of the Crow tribe of Indians in the Territory of Montana for the

surrender of their reservation in said Territory, or of such part thereof as may be consistent with the welfare of said Indians: *Provided*, That any such negotiation shall leave the remainder of said reservation in compact form, and in good locality for farming purposes, having within it a sufficiency of good land for farming, and a sufficiency for water and timber; and if there is upon said reservation a locality where fishing could be valuable to the Indians, to include the same if practicable; and the Secretary shall report his action, in pursuance of this act, to Congress at the next session thereof, for its confirmation or rejection;"

And whereas, in pursuance of said act of Congress, commissioners were appointed by the Secretary of the Interior to conduct the negotiation therein contemplated:

The said commissioners on the part of the United States, and the chiefs, head-men, and men, constituting a majority of the adult males of the Crow tribe of Indians, in behalf of their tribe, do solemnly make and enter into the following agreement, subject to the confirmation or rejection of the Congress of the United States, at the next session thereof:

ARTICLE I.

The United States agrees that the following district of country, to wit: commencing at a point on the Missouri River opposite to the mouth of Shankin Creek; thence up said creek to its head, and thence along the summit of the divide between the waters of Arrow and Judith Rivers, and the waters entering the Missouri River, to a point opposite to the divide between the head-waters of the Judith River and the waters of the Muscle-Shell River; thence along said

divide to the Snowy Mountains, and along the summit of said Snowy Mountains, in a northeasterly direction, to a point nearest to the divide between the waters which run easterly to the Muscle-Shell River and the waters running to the Judith River; thence northwardly along said divide to the divide between the head-waters of Arnell's Creek and the head-waters of Dog River, and along said divide to the Missouri River; thence up the middle of said river to the place of beginning, (the said boundaries being intended to include all the country drained by the Judith River, Arrow River, and Dog River,) shall be, and the same is, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes, or individual Indians, as, from time to time, they may be willing, with the consent of the United States, to admit among them. And the United States now solemnly agrees that no person, except those herein designated and authorized so to do, and except such officers, agents, and employees of the Government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article for the use of said Indians; and the United States agrees to erect the agency and other buildings, and execute all the stipulations of the treaty of Fort Laramie, (the said stipulations being hereby re-affirmed,) within the limits herein described, in lien of upon the south side of the Yellowstone River.

ARTICLE II.

The United States agrees to set apart the sum of one million of dollars, and to hold the same in trust

for the sole use and benefit of the Crow tribe of Indians, the principal to be held in perpetuity, and the interest thereof to be expended, or re-invested at the discretion of the President of the United States, annually, for the benefit of said tribe.

ARTICLE III.

It is mutually agreed between the United States and the Crow Indians that the second article of the treaty made at Fort Laramie, between the commissioners of the United States and the Crow tribe of Indians, be, and the same is, abrogated by this agreement; and the said Indians hereby code to the United States all their right, title, and claim to the tract of country described in the said second article, to wit: "Commencing where the 107th degree of longitude west of Greenwich crosses the south boundary of Montana Territory; thence north along said 107th meridian to the mid-channel of the Yellowstone River; thence up said mid-channel of the Yellowstone to the point where it crosses the said southern boundary of Montana, being the 45th degree of north latitude; and thence east along said parallel of latitude to the place of beginning," and which is conveyed to them therein, except the right to hunt upon said lands so long as they may remain unoccupied, and as game may be found thereon and peace continues between the whites and Indians.

ARTICLE IV.

The United States agrees to suppress, so far as possible, by the imposition of pains and penalities, the practice of wolfing, or killing game by means of

poison, within the limits of the following district of country, viz: Beginning at the mouth of the Muscle-Shell; thence up the said river to the North Fork, and up the North Fork to its source; thence northward along the summit of the Little Belt and Highwood Mountains to the head of Deep Creek; thence down said creek to the Missouri River, and along the margin of said river to the place of beginning.

It is expressly understood between the commissioners and the Indians, parties thereto, that this agreement is subject to the ratification or rejection of the Congress of the United States at its next session, and that, pending the action of Congress, the United States shall prevent all further encroachments upon the present reservation of the Crow tribe.

FELIX R. BRUNOT,
E. WHITTLESEY,
JAMES S. WRIGHT,
Commissioners in behalf of the United States.

Attest:
THOMAS K. CREE, *Secretary.*

PIERRE his ± mark *SHANE,*

MITCH his ± mark *BOYER,*

Interpreters.

Iron Bull, Che-vo-te-pu-ma-ta.
Black Foot, Kam-ne-but-se.
Long Horse, E-che-to-hats-ke.
Show-his-face, In-tee-us.
Bear Wolf, Isa-auchbe-te-se.
Thin Belly, Ella-causs-so.

Good Heart, Uss-pit-ta-watse,
Old Onion, Mit-hu-a.
Red Sides, Si-ta-pa-ruse.
Crazy Head, A-su-ma-ratz.
Bull chief, Ise-la-mats-ctts.
Shot-in-the-jaw, Esa-woor.
Lone Tree, Mone-a-mut-eats.
In-the-morning, A-a-Seitz.
Boy-that-grabs, Seeateots.
White Forehead, E-seha-chire.
Small Waist, E-hene-pea-carts.
Flat Side, Oos-tsoo-ch-scots.
Old Dog, Bis-ca-carriers.
The next, Ish-shis-shee-ess.
Crazy-sister-in-law, Ou-at-ma-ra-sach.
The Spider-that-Creeps, Ah-spe-di-ess.
Crazy Pon de' Orai, Minne-hu-ma-ra-chae.
Bull-goes-a-hunting, Ce-da-nu-ta-cass.
Crane-in-the-Sky, A-pil-Mouse.
Coon-Elk, Chin-ka-shee-arache.
The Old Crow, Perits-har-sts.
White Otter, Ma-pu-ku-he-te-te-suish.
Long-Snake, Bi-ka-che-hats-ki.
White Mouth, Te-de-sil-se.
Pock-Mark, Te-spu-ke-he-te.
The White Bull, Te-shu-not.
The No Hand, Te-si-closst-so-ish.
The little Antelope, Uk-ha-nak-ish.
Curley, Ash-ish-ish-e.
The Ridge, E. Nak-he-sash.
Big Horse, Te-le-si-cle-is-ash.
Calf in the mouth, Nak-pak-a-e.
Old Mountain Tail, A-mak-ha-viss-ish.
Bear in the water, Me-mum-ak-hiss-is-e-ish
One Feather, Mash-u-a-mo-te.
The Mix, Ma-ish-ish.
Bell Rock, Mit-a-wosh.

New Lodge, As-hi-hash.
The Rings, She-da-nat-sik.
Well Bull, Te-si-do-po-mo.
The Shaven, Bish-i-ish.
The one who hunts his debt, Ash-e-te-si-Oish.
One who hears good, Ma-in-ke-ku-te-sit-sine.
The Burnt, Osh-Nish.
Bear Robe, Ach-je-it-se-is.
The River, A-ash-ish.
Big Forehead, Ak-hi-es-ash.
The one who knows the bull, Te-se-do-pe-e-a-te-sa.
Bit Kettle, Bi-re-ke-hi-tash.
Chief Wolf, No-it-a-ma-te-sets.
The Leg, Te-tu-se-pe.
The man who sits in the middle of the ground, A-ive-ku-a-ta-mish.
Blinkey, Bish-te-ha-mo-te-te.
One who sees all over the land, A-we-ko-to-e-ka.
Bull all the time, Te-si-doss-ko-te-so-te.
Plenty of bear, A-che-pil-se-a-hush.
Rides behind a man on horseback, Ma-me-ri-ke-ish.
Bird off the ground, Ma-pe-she-ri.
Charge through the camp, Ash-e-ri-i-a-was-sash.
The old Bear, Ak-hi-pit-se-u-ke-hi-ke-ish.
Crazy Wolf, Te-se-te-man-ache.
The Plume, Te-se-do-pic-shu.she-ish.
Old Alligator, Bo-ru-ke-he-sa-cha-ri-ish.
Bob-tail Bear, Ak-hi-pilse-u-ke-hi-ke-ish.
Pole Cat Look behind, Te-spit-te-sash.
Wolf Bow, Te-sets-sha-tak-he.
The Sioux that runs fast, Ak-man-ash-up-pe-yeu-hu-she.
Little Soldier. The one who hunts his enemy.
Bull Rock. Pretty Lodge. Herd the Horses.
Three Wolf. Stray Horse.

We, the undersigned, were present at and wit-

nessed the assent of the Crow chiefs, head-men, and men of the Crow tribe of Indians, whose names are attached thereto.

THOMAS K. CREE,
Secretary Special Crow Commission.
C. W. HOFFMAN
R. W. CROSS
I. M. CASTNER.
F. GIESDORF.
F. D. PEASE,
Agent for Crow Indians.

The undersigned were present at the council with the Crow Indians, and witnessed the proceedings. The agreement was carefully explained, and was fully understood and assented to by the Indians.

GEO L. TYLER,
Captain, Second United States Cavalry.
CHARLES F. ROE,
Lieutenant, Second United States Cavalry.

We, the undersigned, members of the Crow tribe of Indians, were not at the agency at the time of the council, but, after having the articles of convention fully explained to us, do hereby give our assent to the same.

The Deaf.
Crooked Face.
Little Face.
Split Ear.
Kill the Chief
Plenty Elkhorses
Boy Chief, Taboo
The Buffalo.
Burnt Arm.
Buffalo Calf.
Brown Beaver.
Small Pony.
Small Boy.
White Bull.

The Sergeant.
The Blind.
Chief Bull.
The Bravo.
Eats a horse.
Medicine Chicken.
Long Hour.
Crow Head.
Arm in his neck.
Small Bear.
White Otter.
School Teacher.
White Calf.
Bull on top of the mountain.
Big Pond.
The Magpie.
Pretty Bird.
The Gooseberry.
Musk Rat.
Shoots well.
Young one in the mouth.
Sitting Weasel.
Pretty Robe.
Four Chiefs.
Sharp blade sword.
The Deer.
Cloudy Forehead.
The Knife.
Black Face.
Long Fingers.
Blind Horse.
Flying Eagle.
Calf Woman.
Pretty Bull.
Black Dog.
The Winking Eye.
Young Horse.
Sewed side.
Pretty prisoner.
Kill the Chief.
Plenty Elkhorses.
Boy Chief, Taboo.
The Buffalo.
Bad Snow.
Old Cloud.
Yellow Fender.
The Swan.
Pretty Side.
Yellow Bull.
Sharp Nose.
Crooked Nose.
The Coat.
Bear From Below.
The Hair.
The Weasel.
Two Tails.
Pounded Meat.
Sister to Crazy
The Dumb.
The Pipe.
Yellow Horse.
Tiger Woman.
Iron Neck.
Medicine Rock.
The Shell.
Splendid Leg.
White Head.
Old Saddle.
The River Bull Woman.
Shell-in-the-Year.
Good Beard.
Little Whetstone.
Otter that knows.
Bird Woman.

Old Blackbird.
White Dog.
Pretty Gun.
Plenty head gear.
Two Lances.
Small Bull.
The Black Bird.
Fat Elk.
Green Meadow.
Old Kettle.
Tall Pine.
Diving Otter.
Friendly Beaver.
Jack Sheppard.
The Throat.
Flat Black.
Black Foot's Son.
The Red.
The Twin.
Yellow Top.
Ra-Hide.
Plenty Head.
Little Wolf.
Rotten Tail.
Red Fox.
The Onion.
Half Yellow Face.
Dog Eye.
Afraid-of-his Eyes.
Little Son.
Yellow Tobacco.
Iron Necklace.
Small Wolf.
Gray Head.
Yellow Head.
Pretty Eagle.
No Heart.
Red Beard.
Blue Moccasin.
Young Wolf.
No Hand.
The Otter.
Show his Face.
Dirty Head.
Takes the Shield.
Two Hours.
The Blind Bull.
White Swan.
Hides-his-face.

We, the undersigned, members of the Crow tribe of Indians, who were at the agency during the sitting of the council, but were not present when the articles of convention were assented to, hereby give our assent to them.

Bad Hand, Blue Leggings.
Ugly Face.
Back Bone.
The Panther.
Sitting Bull.
Little Iron.
Fish Catcher.
Horse Guard.
Scabbed Bull.
The Chicken.

Strong-by-Himself.
The Tail.
Long Neck.
Spotted Tail.
Yellow Top.
Crane in the Sky.
Big Nose.
Yellow Leggings.
Mauntain Pocket.
Old Cloud.
Old Kettle.
Red Face.
Bear Head.
Black Head.
Shake-his-Tail.
Poor Elk.
Big Ball.
Old Tiger.
The Island.
Old Man.
Picket Pin.
Old Tobacco.
Hole-in-the-Forehead.
Crazy Head.
Iron Feather.
Red Fox.
Bird in the Neck.
The Buffalo.
Medicine Rock.
Crooked Eye.
Pretty Bear.
Old Liar.
Kills Quick.
Smart Boy, Great Hunter.

Witness
PIERRE SHANE,
his mark.

I certify on honor that the above names were appended as stated.

F. D. PEASE.

Narrative of the proceedings of the special commission.

Hon. Felix R. Brunot, chairman of the special commission to negotiate with the Crow tribe of Indians, under act of Congress of March 3, 1873, accompanied by Thomas K. Cree, as secretary, arrived at Bozeman, July 7.

Arranged with Agent Pease to have the Mountain and River Crows brought to the agency as soon as possible.

July 28. — General E. Whittlesey, of Washington, and Dr. James Wright, late superintendent of Indian affairs for Montana, members of the commission, arrived at Bozeman.

August 30. A conference of the commission was held at Fort Ellis. The chairman read the letter of the honorable Secretary of the Interior, dated May 14, authorizing the commission, and the letter of the honorable Commissioner of Indian Affairs, of May 29, giving instructions for the guidance of the commission in its negotiation with the Crows. Also, the treaty at Fort Laramie, made with the Crows, May 7, 1868. The commission had a free conference in regard to the objects sought to be attained.

Having learned that the parties sent out for the Mountain Crow Indians, after thirty-three days' absence, had found them, and had reported that they were *en route* for the agency, and that a portion of the River Crows had already arrived, the commission decided to leave for the agency the next day.

July 30.—Left for the Crow agency. Arrived at 9:30 p.m. Blackfoot and a few of the principal men who had come in from the camp were waiting to see the commission.

Aug. 1.—This morning some twenty of the prominent chiefs, under Blackfoot, called to pay a formal visit to the commissioners. They came in singing a song of welcome "to the commissioners from the Great Father," and, after shaking hands and embracing the great white chiefs, the following conversation occurred:

MR. BRUNOT. We are very glad to see you. We have been waiting for some time at Bozeman. We want to see all the Crows. The Great Father sent us and told us to talk with all of you. We want to know where your camp is, and when all will be in.

BLACKFOOT. They are camped on the Yellowstone, at the mouth of Alder Creek, about forty miles away.

MR. BRUNOT. How many days is that away?

BLACKFOOT. We can't tell how many nights; six or seven, perhaps.

MR. BRUNOT. That is a long time for us to wait.

BLACKFOOT. Our horses are poor; it is warm weather, and the horses have given out; all the streams are high and hard to cross; they sent us men ahead to meet you. Last summer you came and sent to see the tribe, but before we got here you had gone. This time I came ahead because I wanted to see you.

MR. BRUNOT. If they come as soon as they can we will wait. Can the camp be here in five nights?

BLACKFOOT. I do not think they can get here so soon. Do not be in a hurry; we want to see you. the streams are high, and our horses poor, but we will come as soon as possible.

MR. BRUNOT. I waited a long time for you last summer, and the Great Father was sorry you did not come. It is a long journey from Washington; it would take six months on a horse to go there, and now that we are here we want to see you, and if the camp comes as fast as it can we will wait.

BLACKFOOT. To-morrow I will go to the camp, and bring them as soon as I can. We do not know how long it will take, but we will bring them as soon as we can; we did tell them that you were in a hurry.

MR. BRUNOT. That is well.

BLACKFOOT. You have sent for us; we had not gotten skins enough, and were not through our hunt, but we came at once.

MR. BRUNOT. How many lodges have you?

BLACKFOOT. We do not know how many; there

are about 400 lodges, but some are River Crows, Bannocks, and Nez Perces.

MR. BRUNOT. Where did you meet the Sioux?

BLACKFOOT. Across Prior's Creek, about twenty miles, at the foot of Prior's Mountain, we met the Cheyennes and Sioux. They were coming this way; they were a big party. The most of them did not come to fight, but a small party met and fought us, and we killed one of the Sioux. From there we went after them. We had plenty of ammunition and were friends of the white men, and we followed them down the Big Horn. There is a large party at Fort Smith; when they found we were coming they went back. The Big Horn was too high for us to cross, or we would have followed them and driven them from the country. On Warm Spring Creek, across the Big Horn, we fought and whipped them, but could not get over the river after them. The Crow soldiers wanted to cross, but the camp could not go without danger of drowning some of our people and ponies, but we sent scouts, and they brought back horses taken from the Sioux camp. The Sioux camp was between the Big Horn and Little Horn; we sent six of our men; they brought twelve Sioux horses. When they came back we sent two more. They found a Sioux out hunting; they killed and scalped him and got his horse; when they came back they found us camped at Pompey's Pillar.

Three Nez Perces went out from there and took five horses and mules from the Sioux. We sent two more men; the Sioux camp was at the mouth of the Little Horn; it was a big camp; five rows of tepees. They got some horses, and shot into the Sioux tents. From Pompey's Pillar we came to Prior Creek, and there Boyer (the messenger) found us. He came through near the Sioux camp, and just afterward we

had the fight with the Sioux—just at the mouth of Prior Creek. The party was so large they came right up to our camp and attacked us. The big valley on Prior's Creek was full of Sioux Indians. Boyer will tell you the same. The white men who were with us took their guns and went out with us to fight the Sioux. Another party went from Prior Creek after the Sioux. When we came to the Stinking Water three of them had been killed. We knew you great white men who were coming from the "Great Father" to see us would hear whether we whipped or not. We began to fight when the sun got up; we fought them till noon, when the Sioux began to run; we followed them to Fly Creek, nearly sixty miles.

The Sioux must have good white-men friends on the Platto and Missouri. They get guns and ammunition; they are better armed than we are; they have Winchester, Henry, and Spencer rifles and needle-guns. We took some of these guns from those we killed; we took two Henry rifles and one needle-gun; they threw away their blankets and saddles, and we got a number of them; they threw away their ammunition. Their outfit was better than ours. We got needle, Spencer, and Winchester cartridges, and powder and balls from them. The Great Father does not know that the Sioux get these arms and ammunition, and then they kill white men with them. The Crows do not kill white men; the arms and ammunition we get is to hunt with, and defend ourselves and our white friends with.

When the fight was over we intended to go to Heart Mountain, where buffalo were plenty, and get skins for our lodges, but we did not go then.

We came here to shake hands with you; and we want you to think well of the Crows. We mean to do right, and we will listen to what you say to us. We

want you to know how the Sioux trouble us. There are many Sioux, but we are not afraid of them. They want to come on our land, but we intend to keep them off. I love you and hold on to your hand, but the Sioux we want to fight. We will stay here to-day, and to-morrow we will go to the camp. Too many of us cannot leave the camp at one time for fear of the Sioux. Even at the agency we watch for the Sioux. We brought a good many guns with us, and the camp is short that many. The Sioux want to get our country, but we will not let them have it.

MR. BRUNOT. The Great Father does not give the Sioux any guns. I do not know where they get them. We know the Crows are our friends; that is the reason we come here; and we want you always to continue our friends; what we say is for your good. I have to go to see the Utes after I leave here. The Ute chief met me on the way. He heard what the Great Father wanted them to do, and they are going to do it; and so with nearly all the Indians, they are going to do as the President wishes them.

After awhile, if the Sioux do not do as the President wants, he will make them do it. Since the President's war is over he has plenty of soldiers, and he intends to make everybody—red men, white men, and black men—do what is right. He is going to made them all do it, whether they want to or not; but he does not think the Crows want any soldiers, for they are his friends and will do what is right.

Is Long Horse with the camp? I saw him last year.

BLACKFOOT. Yes; his brother was killed in the fight.

MR. BRUNOT. We came in a wagon, and could not carry any presents with us, but we want you to have dinner with us. How many chiefs are here?

BLACKFOOT. Twenty-two Mountain-Crow men;

and nine River Crows.

MR. BRUNOT. We want the Mountain Crows to-day, and the River Crows to-morrow.

BLACKFOOT. The River Crows belong to me, and I want you to treat us all alike.

MR. BRUNOT. This is our dinner, and we want you all to come to-day.

BLACKFOOT. Are there any cattle above the canyon on the river?

MR. BRUNOT. Yes; I saw them there. Those cattle are on the wrong side of the river.

MAJOR PEASE. They ought all be taken off, and the miners too. I ordered the herders to move the cattle farther up, or else across on the other side of the river.

MR. BRUNOT. Major Pease has ordered them to take the cattle away. The country up there is not good for much; there are many mountains.

BLACKFOOT. The country is good, and we like it. It is our country, and we know it is good.

MR. BRUNOT. I know it is your country. Where is the best country you know of for Indians to live on?

BLACKFOOT. (after much discussion.) Why did you ask that question?

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MR. BRUNOT. I want the Crows to have the best country, and I want to know where it is. I do not want any of your country for myself.

BLACKFOOT. I am going to tell you, but we are not ready yet. We have land we like very much, and we will tell you about it when our people come in.

MR. BRUNOT. Some places the white men are in already; other places they are going in; and we want to find a good place that we can keep always for the Crows.

BLACKFOOT. Do not be too fast; wait till all are here. When the rest come in we will tell you our mind.

MR. BRUNOT. You will come for dinner, and then you will go and bring the camp.

AUG. 8.—The Indians arrived to-day. They had been detained by fights with the Sioux, and by sickness in the camp, quite a number having died while *en route* for the agency; Iron Bull and Blackfoot, the two principal chiefs being sick; and Long Horse, an important chief, being in mourning for his brother, who was killed by the Sioux.

Arrangements were made for a council to-morrow.

AUG. 9.—Provisions were issued to-day, taking from 10 o'clock till 5, after which the Indians declined to come into council on account of the chiefs being sick and the hour too late.

Respectfully submitted.

THOMAS K. CREE, *Secretary.*

To the SPECIAL CROW COMMISSION.